United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, SECOND SESSION

Vol. 154 WASHINGTON, MONDAY, JANUARY 28, 2008 *No. 13*

Senate

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God of divine love, help our Senators today to rise to the challenge of the needs of our world. Inspire them to do this by making new commitments to You, followed by faithful service. Make them strong in Your strength, that they will not become weary in doing Your will. Help them to understand that the riches of our lives and this great land have been given to us by Your loving providence.

Remind them also that to whom much is given, much is expected, and that they are accountable to You for their stewardship as they journey through life. Empower our lawmakers to use their considerable abilities to serve You and humanity.

We pray in the Name of Him who gave His life for all. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 28, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WEBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

RENDERING PUBLIC SERVICE

Mr. REID. Mr. President, a year ago today, the Presiding Officer gave one of the classic speeches in American history as a freshman Senator responding to the State of the Union Message. It was a message that was accepted on both sides of the aisle by the people of Virginia and everyone in this country. I wish to remind the Senator what a great public service he rendered last year in giving this speech.

SECRETARY OF AGRICULTURE

Mr. REID. We are going to try to get approved very quickly—we are cleared on this side; we are waiting to have the Republicans clear Governor Shafer to be the Secretary of Agriculture. We would like to get that done in the next little bit. After we do this, it takes the White House a number of hours to get all the paperwork in order so that he can be sworn in. It would be really nice if we could get him to attend the State of the Union Address tonight. This would be extremely good.

President Bush has nominated him. This will be the last State of the Union speech the President will give, and it would be good if he had a Secretary of Agriculture there during those proceedings. So as soon as it is cleared by the Republicans, we will clear Governor Shafer to be the Secretary of Agriculture.

UNANIMOUS-CONSENT AGREEMENT—S. 2248

Mr. REID. Mr. President, I ask unanimous consent that the previously scheduled cloture vote on the substitute amendment occur at 4:40 p.m. today and that all provisions under the previous order remain in effect. Our staffs have talked; I am confident the Republican leader is aware of this.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

SCHEDULE

Mr. REID. Mr. President, this afternoon the Senate will be in a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders.

At 3 p.m., the Senate will resume consideration of the FISA legislation. The time until 4:40 p.m. will be equally divided and controlled between the two leaders or their designees, with the final 20 minutes equally divided and controlled between the two leaders, with the majority leader controlling the final 10 minutes.

At 4:40 p.m., the Senate will proceed to vote on the motion to invoke cloture on the Rockefeller-Bond substitute amendment. If cloture is not invoked on the substitute, the Senate will then proceed to a second vote on the motion to invoke cloture on the Reid amendment to the underlying bill.

As a reminder, there is a 4 p.m. filing deadline for second-degree amendments.

At 9 p.m. tonight, the President will deliver the State of the Union Address to a joint session of Congress. Senators will gather in the Senate Chamber at 8:20 p.m. and then proceed as a body to the Hall of the House of Representatives at 8:30.

Senators are encouraged to attend the Secretary of the Senate annual

State of the Union supper tonight at 6:30 p.m. in S–211.

MEASURE PLACED ON THE CALENDAR—S. 2557

Mr. REID. Mr. President, S. 2557 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2557) to extend the Protect America Act of 2007 until July 1, 2009.

Mr. REID. I object to any further proceedings with respect to this bill at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

REMEMBERING GORDON B. HINCKLEY

Mr. REID. Mr. President, I would say very briefly that someone I have gotten to know over the last number of years died last night at 7 o'clock—the leader of the Mormon Church, a man who has been instrumental in the tremendous growth of the church. During his period of time, the church has grown by millions of new people coming into the church. He has been a phenomenal builder, building scores of new temples around the world. As we speak, there is one new church building being built every day, being dedicated every day. That is a lot of construction. I was told last week that the largest single builder of buildings in the United States next to the Federal Government is the LDS Church, the Church of Jesus Christ of Latter-day Saints, of which this good man was the leader.

He is someone who has done some very unique things. He started what is called the Perpetual Education Fund. About half the members of the church are located outside of the United States. Millions of members of the church are located in Mexico, Central and South America. He started what is, as I have indicated, called the Perpetual Education Fund, which is a voluntary contribution made from members of the church to help these people who are coming into the church be educated. As a result, tens of thousands of people are now educated and are now church and community leaders around the world.

There is so much more that could be said about this good man who was kind and gentle and epitomized everything that is good in mankind, and certainly on a personal basis I will miss him greatly.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

SECRETARY OF AGRICULTURE

Mr. MCCONNELL. Mr. President, I am not aware of any problems with regard to the nominee for Secretary of Agriculture, and we are running a hotline on this side. I anticipate that it will be cleared shortly, and that will be a confirmation we hopefully can get out of the way at some point this afternoon.

WORKING OR BLAMING

Mr. MCCONNELL. Mr. President, tonight, in keeping with an old custom, the President will speak to Congress and the Nation about the state of the Union. Every President since George Washington has given these periodic updates because the Constitution requires them to do so.

While the Constitution makes no similar demands on congressional leaders, there is no doubt that this year the American people are demanding something from us. They are looking for proof that Republicans and Democrats can come together to get a few things done on their behalf.

Just 1 week into the session, and we are faced with a crucial test, two issues of vital significance to every American citizen: Will we reauthorize a terror-fighting tool that we know has made us safer, and will we put money back into the taxpayers' hands quickly enough for it to have a positive effect on the Nation's economy? It is not an exaggeration to say that the choices we make on these issues will show the public whether we are serious about protecting them from harm and serious about protecting their wallets. So the question is this: Will we find a way to work together or will we find a way to get out of it and then blame the other side?

We got off to a good start. Last Thursday, millions of Americans were absolutely stunned to turn on their television sets and see the Democratic Speaker of the House and the House Republican leader standing together on a stage behind the Treasury Secretary from the Bush administration and nodding in agreement about an economic growth package they had all worked out among themselves. It was the kind of scene many people have wondered if they would ever see again.

For the first time in years, the parties have come together in good faith and responded swiftly to a pressing national concern. They sensed that the Nation was impatient for action, and so they gave up a lot of what they wanted in order to find common ground. House Republicans made major sacrifices. So did House Democrats. Now the Nation's attention turns to us, to the Senate, to see if we are capable of the same. Here is our moment to show that we are.

A number of Senators have expressed a desire to add to this package tens of billions of dollars in spending on contentious programs. But we don't have the time for ideological debates. In order for this plan to work, Congress needs to act and to act at once.

This is not the package, frankly, that I would have put together. In my view, the best way to stimulate the economy would be to lower marginal rates. But neither is it the package my good friend, the majority leader, would have put together. I gather from his public statements he would prefer there be more spending on Government programs. The Speaker and the House Republican leader would also have built a package differently if they had written it on their own, but they put their differences aside because they know we will all get nothing if we are not willing to make some serious sacrifices.

The editorial writers at the Washington Post urged us Friday not to let the perfect be the enemy of the good. Low- and middle-income taxpayers certainly agree. They are tapping their fingers wondering if we can do it.

Americans are also wondering if we can agree on something as fundamental as our national security, and for good reason. We saw some worrisome signs last week that some of our friends were looking for a way out of what would be and could be a good bipartisan achievement on reauthorizing a terrorist surveillance program.

They should remember that 3 years ago, following the lead of the 9/11 Commission, Congress came together to create the Office of the Director of National Intelligence, approving the bill that established it by a vote of 89 to 2. The Director of National Intelligence was supposed to be the person who would connect the dots, who would make sure intelligence gaps were closed, who could look across the entire intelligence landscape and tell us about our vulnerabilities before terrorists discovered them on their own.

Last year, he did just that. The Director of National Intelligence came to Capitol Hill and asked us to either fix the Foreign Intelligence Surveillance Act that allowed us to monitor foreign terrorists overseas or risk weakening this vital intelligence-gathering tool.

Our friends across the aisle put off action for months before finally passing a temporary revision right up against the August recess. Then they delayed again last fall, pushing us up against the expiration of the temporary extension. Now they are delaying again.

There is only one version of a long-term extension that agrees with the recommendations of the Director of National Intelligence, and that is the pending Rockefeller-Bond substitute bill. This bill was carefully crafted on a strong bipartisan basis and reported out of the Intelligence Committee on a vote of 13 to 2. It is the only version the Director of National Intelligence has approved. It is the only version the President would sign. Therefore, it is the only one that has any chance of becoming law before the current extension expires on Friday of this week.

The time to act has long since passed. We need to approve Rockefeller-Bond, and we need to do it this week.

Some of our friends on the other side say they will not vote for cloture on Rockefeller/Bond because they could not amend it. No one should be deceived by this complaint. The amendments they want would transform it into a replica of the partisan bill that was reported out of the Judiciary Committee last fall. In other words, allowing amendments would guarantee failure.

Some of our friends on the other side say they want a 1-month extension. Never mind that we have had 10 months to act already. No one should be deceived by this complaint either. The real reason for the 1-month extension, of course, is to give Members who vote in favor of it the political cover they need to vote against Rockefeller/Bond. This is another clever way to make the bill fail.

Some of our friends on the other side say we are wrong to insist that phone carriers who may have cooperated with the Government in tracking terrorists be immune from lawsuits. The implication is that this is some kind of a favor for big business. But this advice is coming from the intelligence community, not politicians, because they know that we could never expect these companies—or any others—to cooperate in the future as long as the threat of a lawsuit looms.

Finally, some of our friends accuse us of being scaremongers for urging passage now. But the terrorist threat has not diminished since 9/11. It hasn't expired. The Director of National Intelligence assures us it hasn't. The memory of 9/11 tells us it has not. Attacks in Madrid and London and Bali tell us it has not. And the terrorists themselves tell us it has not. The threat is real. And we cannot let success in preventing another one keep us from staying on offense with all the tools and resources we have. The bottom line is this: by voting for cloture on Rockefeller/Bond, Members will guarantee that this important antiterror tool does not expire. And those who vote against it are voting either to delay its reauthorization or to weaken, not strengthen, our terror-fighting tools.

Fixing FISA is within our grasp. Will we come together and embrace the compromise approach that protects us, and doesn't force companies to make a false choice between the good of the firm or the good of the country or will we go the partisan route? It would be a worrisome sign indeed if the first bill Democrats filibuster this year deals with national security. We must resist the mistakes of last year, and act.

Last week, we saw the kind of tough compromise that's necessary when lawmakers are more concerned about making a difference than making a political point. Now it is our turn. The second session is young. But the choices we make this week will define us. And in my view, it is a welcome opportunity.

Here in the second week of the session we have a chance to show Americans that we can work together on their behalf, to solve problems; to protect their security and protect their wallets. This is a defining moment for the 110th Congress. Let's put the mistakes of last year behind us. Let's show that the U.S. Senate can get the job done.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees.

The Senator from Utah is recognized.

DEATH OF GORDON B. HINCKLEY,

Mr. BENNETT. Mr. President, as the majority leader noted, last night Gordon B. Hinckley, the oldest serving president of the Church of Jesus Christ of Latter-day Saints in the history, passed away. He was 97 years old. Many might think that in lasting until 97 he passed away as a wasted, worn-out man. That is not true. President Hinckley was energetic and enthusiastic and fully engaged within just a day or two of his passing. With my senior colleague Senator HATCH, I have had meetings with him and the other leaders of the church and was always amazed at how well connected he was. He read the papers. He watched the television. He knew what was going on in the world outside the church every bit as much as we did. His memory was phenomenal. There are many people who were 20 to 30 years his junior who could not remember current items of news as well as he could.

So it is appropriate we take a moment or two to comment on the stewardship and contribution of this great man at the time of his passing. We do not mourn for him. He has joined his wife, his parents, and those others who have gone before him who may have a little sense of ''Gordon, what took you so long?'' But he stayed at his job and he fulfilled his stewardship in an impressive manner. The mourning we have on this occasion is mourning for ourselves, for the loss we have sustained in seeing this great and good man go on.

I have made mention of his energy. I should also mention his enthusiasm. He had a great zest for life. He was always looking forward to the next activity and the next opportunity. Along with his energy and enthusiasm, he was a man of humility and humor. You were never quite sure when he stood at the pulpit to speak if he was going to say something that would put you at ease and make you laugh, because that happened much more often than it did with some others who were a little more serious in their message. His messages were always serious, but they always had that touch of humor.

The last message we heard from him, speaking to the entire world in general, and to the church specifically, was his sermon of last October. I am sure he did not know that would be his final sermon to the members of the church. But it started out again with a touch of Hinckley humor. He noted, as he stood to speak, that singers will sing the same song over and over again, as people ask them to perform; orchestras will play the same symphony over and over again; but speakers are always expected to say something new. He said that bothered him a little, as he was going to repeat a sermon he had given before. After we smiled at his early comments, we heard a lecture on anger. He talked about the toxic effects of anger and how we should do our very best, both in our personal lives and in our professional lives, and, if I may, here in the Senate in national dialog, to do away with the sense of anger.

I have just returned from the annual session in Davos, Switzerland, where I heard a lot of people who could benefit from that sermon, as there was a lot of anger people had toward other governments and other government officials.

I will not in any way attempt to capsulize what President Hinckley had to say about anger, except to demonstrate that this was his benediction prior to his death to the members of his church, telling them not to be angry with their families, not to be angry in their communities, and not to be angry with the world.

A former Apostle of the Lord Jesus Christ, Paul, spoke in his letter to the Corinthians about the three most important attributes of a Christian: faith, hope, and charity. Gordon B. Hinckley spoke of these same attributes and lived them in his life. But he put them, if you will, in modern terms: optimism, confidence, and love. A sermon telling us not to be angry with our fellow men is a fitting capstone to the stewardship of this man. It is a modern way of saying Paul's term ''charity'' or the pure love of Christ. We shall miss him.

The ACTING PRESIDENT pro tempore. The Senator from Utah, Mr. HATCH, is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that I may speak for about 5 minutes on Gordon B. Hinckley.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I associate myself with the remarks of my colleague from Utah, Senator BENNETT.

He basically stated in very articulate terms how important President Gordon B. Hinckley was, not just to Senator BENNETT and myself, but to people all over the world.

I express my deepest empathy, sympathy, and love to the family of Gordon B. Hinckley. I agree with Senator BENNETT, that President Hinckley in dying was happy to go and again be with his beloved eternal companion, Marjorie, whom he missed, who died about 4 years before him, and to be with others he has known here on this Earth, and others he would like to know who helped to make this country the greatest in the world, and many others as well. I extend my deep sympathy to his family—a wonderful family; they are terrific people.

President Hinckley was as ecumenical as a person could be. He led a worldwide church, the fifth largest church in America, the Church of Jesus Christ of Latter-day Saints. He basically taught all of us to understand that all religions are good and that we should work together. I don't think there has been a humanitarian mission or a major disaster anywhere in the world where the Church of Jesus Christ of Latter-day Saints—nicknamed the Mormons—hasn't cooperated with Catholic charities and other Christian charities—especially Catholic charities—to immediately go into action and provide the needed food, clothing, pharmaceuticals, et cetera, all over the world. These two charities have done so much. He made sure our members—13 million strong around the world—participated in each humanitarian concern. In fact, we have thousands and thousands of humanitarian missionaries all over the world. Many are older people who are retired and are giving 18 months, or even more, of their time—and some less—to be able to bring humanitarian help to people all over the world. This man led that. He was also a great business leader. Imagine, we had a man like this run this very important worldwide church.

Senator BENNETT mentioned his sense of humor. You hardly heard a set of remarks by President Hinckley where he didn't very wittily make his points even better than he would have if they were just stern and tough. He was never stern and tough, unless it was essential. He was always kind and loving. He was kind to me. Elaine, my wife, and I personally love him and we are going to miss him very much. He traveled all over the world. I have traveled all over the world, and generally have done it on military planes with military liaisons helping us and carrying our bags, doing everything to make it a reasonable trip. I come back beat every time. In every case, I wanted to kiss the ground when I got back here. He traveled extensively all over the world, almost a million miles. In that regard, I pay tribute to Jon Huntsman, Sr., who made it possible in his later years for him to have a very good airplane that I think extended his life for a longer period of time for the benefit of mankind all over this world. It was a wonderful thing.

He had love for all human beings and he expressed that love not only through his words but also through his actions.

I might add that, as Senator REID mentioned, he established the perpetual education fund where members of our faith donate millions of dollars every year to help unfortunate young people in these foreign lands to be able to go to school and raise their educational level so they can become leaders in their own country, and so they can make great contributions. I think it is one of the most inspired things I have ever seen. We have thousands of young men and women who are now leaders in their countries—teachers, doctors, lawyers, and others—all because of the vision of this great man, whom we call a prophet.

I might mention that in his travels he dedicated dozens of temples, the most of any president of the church, all over the world. To LDS people those temples are extremely important. We believe marriage is so sacred and it is for all eternity, not just this life. Frankly, we try to live that way. Many do. These temples are extremely important to us. He went all over the world doing it.

I can truthfully say this is a man I loved. He was a profound influence on Senator BENNETT, me, and millions of others. He was a man who got along with leaders of other faiths. He taught us we must respect everybody.

Today I add my voice to those of 13 million other members of the Church of Jesus Christ of Latter-day Saints in bidding farewell to our beloved prophet, President Gordon Bitner Hinckley. His death late yesterday in his home in Salt Lake City has reminded us that all good things must come to an end. It is a sad day for all Utahns. We have lost our friend, our leader, and our fellow servant. President Hinckley lived great, and he died great in the eyes of God and his people, leaving behind him a fame and a name which will be known for generations to come.

In our effort to follow in President Hinckley's footsteps, Latter-day Saints found they had to lengthen their stride to keep up with him. Even into the sunset of his life, President Hinckley was indefatigable. He set a vigorous pace, traveling the world and sharing his message of service, love, and compassion with millions of all faiths. Everywhere our prophet traveled, he succored the weak, lifted the hands which hung down, and strengthened the feeble knees. When I think of the blessing President Hinckley was to those around him, I am reminded of the words from the great Mormon hymn, ''Every day some burden lifted, every day some heart to cheer, every day some hope the brighter, blessed honored pioneer.''

President Hinckley was born to humble surroundings on June 23, 1910, in Salt Lake City, UT. He attended public schools, and graduated with a bachelor's of arts from the University of Utah. His first job was as a newspaper carrier for Utah's Deseret News. This modest start with a newspaper was a prelude of things to come. President Hinckley became the most media savvy leader the LDS Church has ever known, sharing his warmth and spirit with countless reporters, cultivating great friendships with notables like Larry King and Mike Wallace. Wallace once described President Hinckley as ''a man I admire and I love really, because he's just an extraordinary guy.''

As many Latter-day Saints do, Gordon B. Hinckley served a mission for the church while he was young. President Hinckley served in Great Britain in the 1930s, sharing the gospel's message of peace and hope during a time of great political and economic turmoil. Discouraged by the lack of receptivity he found among the Britons, he confided his dismay to his father, who instructed the young Gordon to ''forget himself and go to work.''

Young Gordon did, both in Great Britain and in the 70 years of service that followed.

His love of God fueled his love of country. President Hinckley carried the torch of patriotism, and the spirit of America burned in his heart. He once said, ''I love America for [its] great constitutional strength, for the dedication of its people to the peace and the prosperity of the entire earth. I love America for the tremendous genius of its scientists, its laboratories, its universities, its researchers, and the tens of thousands of facilities devoted to the improvement of human health and comfort, to the extension of life, to better communication and transportation. Its great throbbing and thriving industries have blessed the entire world. The standard of living of its people has been the envy of the entire Earth. Its farmlands have yielded an abundance undreamed of by most people of the Earth. The entrepreneurial environment in which has grown its industry has been the envy of and model for many other nations.''

President Hinckley's patriotism inspired him to great acts of civic service, in addition to his church duties. He was a chairman or board member of many businesses and educational entities. He received honorary doctorates from five colleges and universities, the Distinguished Service Award from the National Association for the Advancement of Colored People, the Silver Buffalo Award from the Boy Scouts of America, and special recognition for his contributions to tolerance from the National Conference of Christians and Jews.

President Hinckley's ministry earned him national prominence. In 2004, President George W. Bush awarded our prophet with the Presidential Medal of Freedom, the Nation's highest civil award. President Hinckley was one of the spiritual leaders President Bush invited to the White House following the

September 11 attacks. It was a great honor, both for him and our faith, that the President invited him to that gathering. A few months later, on the eve of the Winter Olympics in 2002, President Bush said, ''President Hinckley represents a great religion, he is a strong part of the American scene.''

But President Hinckley never let his love of the United States obscure his vision for the rest of the world. Prior to becoming the LDS president in 1995, Hinckley supervised the church's organization in Asia, Europe, and South America. During his tenure, the number of members living inside North America was surpassed by those living outside of it. The nations of the Earth heard his voice and he brought them a knowledge of the truth by the wonderful testimony which he bore.

As president, he administered to both the ecclesiastical and temporal needs of the church, whose 13 million members are spread over some 160 nations and territories. President Hinckley lifted his voice on every continent, in cities large and small, from north to south and east to west across this broad world. One global vision President Hinckley had for the LDS Church was a perpetual education fund, whereby members in wealthier nations could donate to the education of those in developing nations, thereby empowering them to help themselves and strengthening the infrastructure in struggling parts of the world, particularly Latin America.

When he became president of the church in 1995, the church had only 47 temples, our special meeting houses such as the magnificent one in nearby Kensington, MD. Thanks to President Hinckley's vision of expansion, today there are 124 in operation, and 12 more are under construction.

One of his first messages upon becoming our prophet in 1995 was a proclamation to the world, declaring the divine nature of the family unit and providing direction on how to nurture strong family relationships. There is no greater duty or privilege among the Latter-day Saints than to serve our families. President Hinckley admirably demonstrated that service as a grandfather, father, and husband to his eternal companion, Marjorie, who walked side by side with him for two-thirds of a century.

Now he and Marjorie are walking together in the fields of paradise, enjoying a richly deserved peace in the Lord. I am sure at this time he would remind us that death is the great equalizer. No matter what a man or woman may accomplish in this life, this final inevitability is waiting for them. Shortly before his own passing, perhaps seeing the end was nigh, President Hinckley told church members, ''A man must get his satisfaction from his work each day, must recognize that his family may remember him, that he may count with the Lord, but beyond that, small will be his monument among the coming generations.''

Our heads are bowed now, as we bid him farewell. Gordon Bitner Hinckley joins the ranks of departed prophets, on whose shoulders he stood and in whose mighty company he can now proudly mingle. God be with you, our friend, till we meet again.

I have to say, he stood for everything that was good, and I love him.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FISA

Mr. SPECTER. Mr. President, I have sought recognition to speak briefly in opposition to the motion to invoke cloture. The amendment which I have filed goes to the heart of the issue on removing liability from the telephone companies to impose retroactive immunity. The amendment which I have filed and has been discussed on the floor of the Senate would substitute the Government for the party defendant, where the Government would have the same defenses—no more, no less.

For example, the telephone companies do not have the defense of governmental immunity; and the Government, when substituted, would not have the defense of governmental immunity. The telephone companies can plead state secrets to foreclose the litigation; and when the Government would be substituted, for example, the Government could assert the doctrine of state secrets in order to foreclose the litigation.

If the motion to invoke cloture is granted, I am advised by the Parliamentarian my amendment would not be germane and, therefore, would be stricken. We went through a long session last year where the argument was made, repeatedly and persuasively, not to invoke cloture—the argument advanced on this side of the aisle—in order to give Members on this side of the aisle an opportunity to propose their amendments. Now we have the first situation sought to be applied, and it is my hope this body will reject the cloture motion.

There has been very little time spent on this very important subject in this body, and when you have a matter of the importance of retroactive immunity, where you are going to shut off the courts of the United States from hearing cases that are already pending, there ought to be time for consideration of an amendment such as the one Senator WHITEHOUSE and I have offered to substitute the U.S. Government.

The purpose of our amendment is to comport with the basic constitutional provision of separation of powers, which is the cornerstone of the Constitution, and we have found, regrettably, it has been inadequate to have congressional supervision, congressional oversight, because of its ineffectiveness. For example, when the Judiciary Committee seeks to obtain records on the destruction of CIA tapes, you find the administration resisting and the inevitable argument of politics. When the court issues an order, as the Federal Court did last week for a report on the destruction of documents, seeking to find out what happened on the destruction of the CIA documents, the court can't be charged with politics. We find in Rasul, and in other litigation matters, the judicial branch has been effective in maintaining the separation of power.

One further comment. It is a surprise to me that the amendment which I have offered with Senator WHITEHOUSE has been ruled nongermane. I took a look at Webster's International Dictionary and germane is defined as:

closely or significantly related; relevant; pertinent; closely akin.

I consulted with a Parliamentarian and asked why our amendment was ruled as nongermane, and the answer given was because there was no specific statement of the underlying bill on governmental liability. In pursuing the issue with the Parliamentarian, I then said: I am going to seek to change the rules.

It seems to me peculiar, if not absurd, that my amendment, the Specter-Whitehouse amendment, would not be germane under the common meaning of the English language. I said: Suppose we change the rules to provide that it was relevant? And the answer I got, and I don't want to misquote anybody, was that: Yes, that would stand the test of relevancy. As he put it, a more permissive standard.

So then I checked the definition of relevant in Webster's International Dictionary, and it says:

Bearing upon or connected with the matter in hand; to the purpose; pertinent, raise, lift up, syn applicable, germane, appropriate, suitable, fitting.

Well, the key part about the definition of relevant is that one of the synonyms is germane, just as one of the synonyms of germane is relevant. Now, it is a loss to me. I have been here a while, and I have had a hard time understanding the ruling of what is germane, and I have never seen one as close to the core point as putting the Government as a substitute for the telephone companies, but somehow it is not germane.

So I wish to put my colleagues on notice that I intend to try to change the rules. I can't see why one is necessary when Webster's has germane as a substitute for relevant and relevant as a substitute for germane. If the Parliamentarian thinks that relevant is OK, it is, again, hard for me to see why germane is not. A little surprising.

Mr. DORGAN. Mr. President, will the Senator yield for question? I don't want to interrupt his comments.

Mr. SPECTER. I will.

Mr. DORGAN. Mr. President, morning session is up at 3, and I am scheduled for 15 minutes. I might ask to extend the time. I don't know how much time the Senator is going to use, but I want to make certain I have the opportunity that was previously ordered, for 15 minutes on this side.

The ACTING PRESIDENT pro tempore. There is 10 minutes, 12 seconds remaining, and morning business is under the control of the majority.

Mr. DORGAN. Mr. President, how much additional time does the Senator from Pennsylvania need?

Mr. SPECTER. Less than a minute.

Mr. DORGAN. Let me ask unanimous consent that we extend by 5 minutes the time for morning business so it terminates at 3:05.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. I thank my colleague for his courtesy.

Mr. SPECTER. I thank the distinguished Senator from North Dakota.

Well, I have made my argument. I think it is important to have a ruling, a vote by this body on whether we are going to apply retroactive immunity to the telephone companies. I said on the floor last week that if my amendment is not adopted, I will support retroactive immunity. I think it is a bad practice, but I think, as bad as that practice is, it would be worse to cut off the information which our intelligence community thinks we need. I think it is not advisable. And when we have a method of having both objectives, that is to have the Government have access to the information and at the same time not impose the cutting off of the judicial system for checks and balances, I think that ought to be adopted.

And further, a final comment on the hard-to-understand definition of germane. The dictionary defines it as being relevant, and the dictionary defines relevant as being germane, with the Parliamentarian giving a supplemental opinion that if the standard was relevance, it would be appropriate to have the amendment.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

ECONOMIC STIMULUS

Mr. DORGAN. Mr. President, tonight we will hear from the President in his annual State of the Union Address. I know the President is expected to talk a great deal about the economy and the need for an economic stimulus package. I wanted to talk for a moment about this because I think it is important for us to understand what is happening to our economy.

I know there are some who think the field of economics is some field with precision and elegance and that we are dealing with the ship of state. If we can find our way to the engine room and find all the knobs and gauges and valves and levers and turn them the right way, such as providing an investment credit and bonus depreciation, that somehow we will get this ship of state moving again. Of course, that is not what is at stake at all. There isn't an engine room with knobs and valves and gauges. This is the field of economics, which I have said previously is a lot like psychology pumped up with helium.

So we talk a lot about knowing what is going on. The fact is we are going to now do a stimulus package because there is a notion that there is a problem with the economy. Well, there is more than a problem, there is a very serious problem with this economy. Take a look at the stock market, which is a barometer of confidence—up and down similar to a yo-yo—mostly down. The housing market has cratered, with construction of new homes and apartments in 2007 down 25 percent from the prior year. That is one of the giant job engines in our economy—the housing market. The unemployment rate has jumped, with some 1.4 million workers without a job for 27 months or longer. The trade deficit recently hit a 14-month high. Oil prices are still way up. Retail sales are their worst in years. So we have a very serious problem.

Now, the Federal Reserve Board took bold action last week and that is unusual for the Federal Reserve Board. They all wear gray suits and wire-rimmed glasses and seldom do anything that is very bold, but last week they did. They cut interest rates by three-quarters of 1 percent. So the expectation is that because the Fed is taking that action and seems to be very concerned about the economy, that we should take a look at our fiscal policy, so there is talk about a stimulus.

Frankly, I think a stimulus package is fine. I don't think it does all that much. But the absence of doing something on the Senate side of Congress would send the wrong signal. Psychologically, it is important we work on a stimulus. We are talking about a stimulus that is probably 1 percent of our economy, so it is not exactly going to jump start the American economy. In addition, if all we do is a stimulus package and we continue to ignore the fundamentals, the things that are structurally wrong in this economy, the things that have not just caused the economy to be in some trouble but caused the American people and people all around the world to look at us and say: You know something, you are off track. You are not addressing the things that matter, and this is unsustainable. If we don't do something to address those things, we will not be addressing the basic problem of our economy.

So let me talk about that. No. 1, a fiscal policy. A reckless fiscal policy. I mean, in recent years, think of it. This administration inherited a large budget surplus. Then we got hit with a recession, a war in Afghanistan, a war in Iraq, a war on terrorism—and a whole series of events—including Hurricane Katrina. Many of us said to the President: Don't propose we spend surpluses that don't yet exist. Let us be conservative. He said: Katy bar the door, let us have big tax cuts and most of it for the wealthy, and he pushed it through Congress.

Now, I didn't push for it, he did, and we ran up a huge deficit because of all these unexpected circumstances we were confronted with. So now, in recent years, we have sent soldiers off to war, and the President says to Congress: We are sending soldiers to go fight, but we don't intend to pay for it. I want the Congress to provide emergency spending in order to pay for that, and we will add it to the debt. Last year, he asked Congress for $196 billion for the current fiscal year. That is $16 billion a month, $4 billion a week, none of it paid for, and all of it added to the debt. As if to say to the soldiers: You go fight, and when you come home, we will have you and your kids pay the bills. That is a fiscal policy that is completely off balance.

We are going to borrow about $600 billion this year. That is how much will be added to the debt. I know that is not what they say the deficit is. They say the deficit is lower because, among other things, they are taking all the Social Security surplus from the trust funds and using it to show a lower deficit. We are going to borrow about $600 billion a year to sustain the budget policies of this administration. Add to that a $700 billion to $800 billion a year trade deficit, $2 billion a day every single day, and you are talking about a combined red ink in our budget and trade policies of some $1.3 trillion. That is almost 10 percent of the American economy. Think of that. That is unsustainable.

Now, add to a reckless fiscal policy and a trade policy in which we are hemorrhaging red ink and exporting American jobs, regulators who were asleep on the job—people who came to Government but didn't want to regulate—and the subprime loan scandal occurred right under their noses. We all heard the advertisements. When you turned on the television, you heard the ads. It couldn't have escaped the notice of the regulators, surely. The ads said: Have you been bankrupt? Do you have trouble getting credit? Have you been missing your house payments? Come to us. We have a loan for you. We will give you a new home mortgage. And so they did, with a teaser rate at 2 percent and unbelievable circumstances.

Everybody was making lots of money. The brokers were making millions, the mortgage banks were making a lot of money, and then they were packing these mortgage loans, the good ones, with the bad ones, just like they used to pack sausage with meat and

sawdust. They would use the sawdust as filler back in the old days.

Well, during unregulated times, just like packing sawdust into sausages, what these folks did is, they took good loans and bad loans, packaged them up. They sliced them up, then they securitized them, and sent them out, sold them, and everybody was happy and everybody was fat and everybody was making a lot of money, until it all came home to roost. A whole lot of folks could not make housing payments.

So what we found with the subprime loan scandal is 2.2 million families with subprime loans will lose their homes to foreclosure; 7.2 million with subprime mortgages have an outstanding mortgage value of $1.3 trillion. And when those interest rates reset, a whole lot of them will not be able to pay the bills to keep their homes.

All of this happened under the nose of regulators who came to Government not wanting to regulate. And it caused severe damage to our country. Now, add to that a reckless fiscal policy, a trade deficit in which we are hemorrhaging in red ink and shipping jobs overseas and a scandal in the home mortgage industry that caused enormous damage to our country, made a lot of folks rich in the short term, and victimized a lot of others. Add to that the unbelievable speculation that is going on in hedge funds, most all of it outside of the view of regulators.

Hedge funds are about $1.2 to $1.5 trillion in value; but that does not describe their importance to the economy. They are heavily leveraged. That $1.2 to $1.5 trillion of hedge funds is engaged in one-half of all of the trades every day on the New York Stock Exchange. They are engaged in, among other things, credit default swaps.

There is something called credit default swaps, derivatives, with notional values of $43 trillion. There is so much unbelievable speculation with dramatic amounts of leverage in hedge funds and derivatives that it is scary. Nobody knows what is going on because it is outside the view of regulators. That is the way they want to keep it.

We will talk about stimulus; we will talk about short-term measures. But if we do not deal with this issue of a fiscal policy that is way off track, a trade policy that is an abject failure, regulators who have no interest in regulating, scandals will develop and mature right under their noses, this country is not going to recover. Our economy is not going to thrive and grow. It is fine to do a stimulus package of 1 percent of GDP, I do not object to that. We will borrow the money from China, likely, to do it; perhaps put some money in the hands of people who will go to Wal-Mart and buy goods from China, for all I know.

But, psychologically, I think it is fine to create a fiscal policy initiative that compliments what they are doing at the Fed with monetary policy. But that will not solve the underlying problems in our economy. We have deep abiding problems in fiscal policy, trade policy, and regulatory failures.

This Congress and this President have a responsibility to address them. Talking about stimulus, and just talking about stimulus, means we have not addressed that which moves this ship of state forward in the future, creating expansion opportunities and jobs and economic health. The only way we do that is to stare truth in the eye and understand what is causing the problems in the country and how to fix it.

There is an old saying on Wall Street I was told by a friend: You cannot tell who is swimming naked until the tide goes out. Well, the tide has gone out, and now we are going to see some sights that are not very pretty. It has to do with speculation and a whole series of things that we have to correct. And my hope is, starting this evening at the State of the Union Address and following that, at last long last, we might see a President and a Congress work together to face the truth about fiscal policy, trade policy, and inept regulation that has put this country in significant difficulty and trouble.

We need not have a future that manifests that trouble forever. If we take bold action and courageous action to understand what is wrong and what the menu of items are that we need to go to fix it, I think we can have a much better and brighter economic future in this country. I want to be a part of that work, and I know many of my colleagues do as well. So let's hope the first step to do that begins this evening at the joint session of the Congress at the State of the Union Address.

EXECUTIVE SESSION

NOMINATION DISCHARGED

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session, that the Agriculture Committee be discharged of PN 1112, the nomination of Ed Schafer, to be Secretary of Agriculture; that the Senate proceed to the nomination, that the nomination be confirmed, and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

My understanding is this was cleared on both sides. I am particularly proud to make this request. Former Governor Schafer is a distinguished former Governor from our State. It is a great honor for our State to have him nominated.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BOND. Reserving the right to object, and I will not object, I wish to join with the Senator from North Dakota, who is doing a fine thing. We appreciate the support on both sides of the aisle. We obviously need a good and strong Secretary of Agriculture, and we are pleased to see this body move forward. I do not object. I thank the sponsors.

Mr. DORGAN. Mr. President, might I also say as we ask for the consent that my colleague, Senator CONRAD, worked very hard to accomplish this in the Agriculture Committee. He joins me as well.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF AGRICULTURE

Ed Schafer, of North Dakota, to be Secretary of Agriculture.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FISA AMENDMENTS ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2248, which the clerk will report by title.

The bill clerk read as follows:

A bill (S. 2448) to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Pending:

Rockefeller/Bond amendment No. 3911, in the nature of a substitute.

Feingold/Dodd amendment No. 3909 (to amendment No. 3911), to require that certain records be submitted to Congress.

Bond amendment No. 3916 (to amendment No. 3909), of a perfecting nature.

Reid amendment No. 3918 (to the language proposed to be stricken by Rockefeller/Bond amendment No. 3911), relative to the extension of the Protect America Act of 2007.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 4:40 shall be equally divided and controlled between the two leaders or their designees with the final 20 minutes equally divided between the two leaders, with the majority leader controlling the final 10 minutes.

Mr. HATCH. Mr. President, I ask unanimous consent that I have at least 10 minutes to give my remarks on FISA.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I have been to this floor on numerous occasions to aggressively support the immunity provisions of the FISA modernization bill. I cannot understate my

passion for this issue. I am of the firm belief that the lawsuits facing the telecom providers constitute a grave threat to national security. The potential risks from inadvertent disclosure of classified information cannot be understated. The potential damage to our intelligence sources and methods from allowing these lawsuits to go forward is substantial. Unfortunately, the more we delay this legislation, the more likely it is that our sensitive intelligence methods will be exposed, and not just exposed to the American people but to al-Qaida and thousands of other terrorists and enemies around the world. Remember, the very point of these lawsuits is to prove plaintiffs' claims by disclosing classified information through the discovery process.

Let's think about this. Do we really want any person to be able to make accusations that are utter hearsay and then be given the ability to jeopardize the intelligence community's sources and methods by demanding discovery during frivolous litigation?

We simply cannot do this. We should never reveal our intelligence agencies' technical capabilities, who they work with, who they target, or what their strengths and weaknesses are. We on the Intelligence Committees have that assignment because we are expected to honor the classified nature of those matters. The reasons should be obvious to all of us.

Here is an example that illustrates this point: If criminals are running drugs northbound along I–95, they may have an idea that they will encounter police checkpoints. But they need to transport the drugs, so they will balance this risk. But what if they know for sure there is a checkpoint in a specific State? What if they then find out the checkpoint is at a specific mile marker? Will they change their routes and methods? You better believe they will. They are not stupid and neither is al-Qaida. Does it really make sense for us to broadcast across the globe, over the Internet, how we work? Do we want to replace the uncertainty of how we track terrorists with established fact?

Confirmations or denials of the allegations in the lawsuits will certainly reveal certain intelligence agencies' sources and methods. Even when the proceedings are in camera or ex parte, this risk is still apparent. I cannot stress this point enough: The identity of any company that may or may not have cooperated with the Government with the terrorist surveillance program is highly classified. Accusations and hearsay do not confirm any relationship. The very activities these cases seek to disclose could reveal whether a company has or hasn't assisted the Government. In addition, any verdict in the case would likely provide the same type of information, and replacing the Government for these companies in the litigation does not solve the problem.

Our enemies have tough decisions to make regarding how they communicate. They cannot stay silent forever, and they have to weigh the need to communicate against the chances that their communications are intercepted. We know they are carefully watching us and following every proceeding to see how our Government collects information. If they think they see a weakness in our collection capabilities, they will certainly try to take advantage of it. Make no mistake, al-Qaida and the other terrorist organizations would benefit tremendously from learning the identity of any company that assisted the Government following the attacks of 9/11.

A few of my colleagues and many in the outside media have highlighted accusations from a former telecom employee. His name is Mark Klein. Mr. Klein claims he has proof that computers diverted domestic electronic communications from a phone company directly to the NSA, the National Security Agency. In fact, his accusations play a major role in one of the lawsuits currently facing a telecom provider.

It is important to note the Government chose not to classify Klein's declarations or exhibits in one of the lawsuits. The Government could have, but it didn't. So Klein's court documents are public. Due to the ongoing litigation, I do not want to speak directly to his claims, but I will highlight a statement that was made by an official representing the Government during a court proceeding in one of the lawsuits against a telecom provider. This statement was from the Assistant Attorney General on June 23, 2006, in front of Judge Vaughn Walker. Here is what was said about the decision not to classify Klein's declarations. This is the Government statement regarding Mark Klein:

> We have not asserted a privilege over the Klein declarations or exhibits. Mr. Klein and Marcus never had access to any of the relevant classified information here, and with all respect to them, through no fault or failure of their own, they don't know anything.

I cannot understate the importance of this quote as it has never been mentioned during this debate. No further commentary on it is needed, but I think its meaning is extremely important when Senators and the public weigh the relevancy and reliability of Klein's accusations. I am particularly hopeful that three of my distinguished colleagues who have highlighted Klein's claims on this floor are aware of these statements from the Government. I hope we all realize Klein's accusations highlight only one side of the story.

I also want to draw attention to another claim repeatedly made on this floor: the false declaration that the immunity provision in this bill will ''close the courthouse door.'' These claims seek to convey the false impression that the immunity provision in this bill will halt all litigation relating to the terrorist surveillance program, or TSP.

This is absolutely false. There are no fewer than seven lawsuits currently pending against Government officials that are related to the TSP. The immunity provision in this bill will not—I repeat that, will not—affect any of those cases. These cases are completely unaffected by the immunity provision in this bill.

Here are the cases. Al-Haramain Islamic Foundation, Inc. v. George W. Bush; ACLU v. National Security Agency; Center for Constitutional Rights v. George W. Bush; Guzzi v. George W. Bush; Henderson v. Keith Alexander; Shubert v. George W. Bush; Tooley v. George W. Bush.

Finally, it is imperative for us to understand national security is greatly dependent on the cooperation of telecom providers. We cannot do it by ourselves. Yet many foreign governments are in quite the opposite situation, one which gives them an advantage in certain electronic interceptions. Many foreign telecoms are run by the respective host government. Many others have government officials with controlling authority. These countries do not have to worry about telecom cooperation. They can simply force the telecoms to comply.

We have chosen not to have that system in our great Nation. Rather, we rely on the voluntary assistance of telecommunication providers. When these companies are asked to assist the intelligence community based on a program authorized by the President and based on assurances from the highest levels of Government that the program has been determined to be lawful, they should be able to rely on these representations.

For those who argue we need a compromise, let me be clear: We already have a compromise. The Government wanted more than what is represented in this bill, and they did not get it. The chairman of the Senate Select Committee on Intelligence stated the following in the Intelligence Committee report:

> The [Intelligence] Committee did not endorse the immunity provision lightly. It was the informed judgment of the Committee after months in which we carefully reviewed the facts in the matter. The Committee reached the conclusion that the immunity remedy was appropriate in this case after holding numerous hearings and briefings on the subject and conducting thorough examination of the letters sent by the U.S. Government to the telecommunications companies.

The immunity provisions in this bill are limited in scope. Not everyone is going to be happy with them, and that is the whole point. I, for one, wanted to see more protection for companies and Government officials in this bill, but I am willing to accept the compromise, and my colleagues should be willing to do the same. We are not all getting what we want. We are getting what the public has to have—what the public needs.

We have been working on legislation to modernize FISA since at least April

of 2007. I am extremely proud of the bipartisan efforts that led to this bill in the Intelligence Committee where all of the investigations were made, where the intelligence was protected. We found a balance. Let's show the confidence and resolve to vote on this compromise, not back away from it.

I will support cloture on the Rockefeller-Bond substitute amendment, and I urge my colleagues to do the same.

In that regard, I pray that my colleagues will listen to the distinguished ranking member of the Intelligence Committee, Senator BOND, who has played a significantly proper and important role in helping to get this bill through the committee and to the Senate floor. This is a major bill of protection for our country, and I attribute much of the success of it to Senator ROCKEFELLER, the chairman of the committee, and Senator BOND, the ranking member, both of whom have been sterling leaders on this issue. I hope it is not true that anybody in this body will support some of the amendments that may be brought to the Senate floor because we have looked at this issue frontwards, backwards, all over the place. We have examined it. We spent many months on this subject in the Intelligence Committee. That should not be ignored. It passed the Intelligence Committee 13 to 2 compared to the substitute we defeated with cloture that was 10 to 9 in the Judiciary Committee.

Mr. President, I ask that we support cloture on this bill.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I believe our time on this side has expired. I thank my colleague from Utah, who is a valued member of the Intelligence Committee and the Judiciary Committee, truly a real authority in this area. When he speaks, he speaks from not only a great deal of knowledge but study. We are grateful for his assistance. He is a tremendous asset to this body in many ways but none more so than on the Intelligence Committee.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I rise to oppose the vote to invoke cloture on the FISA bill. I have no choice but to vote against cloture in order to preserve the rights of my colleagues to have their amendments to this landmark legislation considered.

It has been a very weird process. The FISA legislation before the Senate has been taken, in effect, hostage. In a transparent attempt to score political points off of national security issues, the White House has decided, once again, that scaring the American people with unfounded and manipulative claims is in order.

The President's decision to use the FISA bill in a game of chicken represents a new low, even by Washington standards.

The administration's practice of placing politics above national security when it serves the poll-driven agenda of its advisers has become an addiction in this White House. Even when the Senate is on the verge of producing much needed national security legislation that the President supports and wants, the addictive political cravings that have coursed through the administration's body for the past 7 years kick in once again.

As is often the case, addictions produce behavior that is both irrational, and in this case more, unfortunately, self-destructive. In this case, the White House has misguidedly calculated that it is worth jeopardizing passage of a bill which they support, which strengthens the collection of foreign intelligence, in order to obtain a short-term political objective.

The White House is gambling with the safety of Americans and the continued cooperation of companies that we rely on to aid in our efforts to protect our country. It is time for the Senate to take a stand and reject these reprehensible tactics.

The Senate Intelligence Committee took enormous care to craft legislation that would give our intelligence community greater latitude to conduct surveillance of foreign targets while not compromising the constitutional and statutory protections afforded to Americans both here and overseas.

Senator KIT BOND and I worked extremely closely on that, as we did, as I will explain, with many others. This was a painstaking process. It went over many months, but it ultimately produced this balanced legislation that the vice chairman and the committee and I sought.

It is a solid bill. And I believe with some limited changes it can be a better bill; limited changes, I might add, that will in no way impede or in any way intrude into the collection of the intelligence we need.

Every step of the way during the process of producing this bill gave me great satisfaction. We worked in a consultive way with the administration. These discussions have always been in good faith. We have talked as professionals, trying to work out a hard problem to which most people do not pay a lot of attention but which has enormous consequences for our country, and we have done it in good faith, the very good faith that the actions of the White House now threaten to unravel.

From when the Intelligence Committee called on the administration to propose a FISA modernization bill last spring—the vice chairman and I did that—to the many committee hearings that followed, to section-by-section, line-by-line, word-by-word consultations too numerous to count that we had with the lawyers and intelligence experts in the Justice Department, from the National Security Agency, from the Office of the Director of National Intelligence to outside experts, we have worked in good faith with the administration to achieve, against, frankly, considerable odds, the unthinkable, to wit: a bipartisan bill dealing with the issues of profound complexity that has the endorsement of not only the President but also of the intelligence community professionals who will be the ones who carry out this surveillance. They want this bill.

The committee included in its FISA bill a narrowly crafted provision that would provide immunity for telecommunications companies that participated in the President's warrantless surveillance program after September 11 and until the program was placed under court authorization last January.

We rejected the administration's proposed open-ended language in defining very tailored immunity language. We rejected their open-ended language to extend immunity to Government officials. That was taken out. So if there was wrongdoing somewhere, do not make the assumption automatically, without thinking this thing through deeply, that it came from a private sector entity as opposed to public officials.

I realize this is a controversial matter with many of my colleagues, particularly on my side of the aisle, but I reject the games that are being played on both sides: by those Senators who are prepared to filibuster the bill due to their opposition to narrow immunity, and the administration's wishes to prevent the Senate from considering any alternative amendments to the immunity provision.

We should debate the liability issue fully, and the Senate should be allowed to consider alternative amendments. And I say this, and I think the vice chairman would agree with me, out of an abundance of confidence that the committee position will ultimately be sustained by the Senate in the end.

The majority leader has made prompt passage of the FISA bill the top priority for the Senate. He pushed off other subjects so that it could be conferenced with the House and eventually be placed on the President's desk for his signature. If allowed, the Senate can complete action on the FISA bill in a matter of a few days. Unlike many bills the Senate considers where the number of amendments that can be disposed of can approach or exceed 100 or 150 or 175, passage of the FISA bill will probably involve relatively modest numbers of amendments and a very manageable number of amendments.

I estimate that number would be somewhere in the 12-to-15 amendment range, probably fewer. Some of these amendments I would support as needed as improvements to the bill of the committee, the Intelligence Committee. Many I would oppose because of my concern that it would undo the careful balance we achieved in the underlying Committee bill. This is a stitched piece of work between collection of intelligence for the national security and

the rights and privacy of individuals. I will oppose anything that undoes that balance.

The amendments that are likely to pass with a majority vote, at least in my view, such as the Feinstein exclusivity and Cardin sunset amendments, are further refinements of provisions already in the Intelligence Committee bill, and they in no way bear on the collection of intelligence authorities sought and provided by our bill. Those that would undercut these authorities to be able to do collection, I am confident, would go down to defeat.

But the Republican leadership, under orders from the White House, objected to these amendments being considered and voted on, and the bill passed before the February 1 expiration of the temporary and flawed Protect America Act passed last August. So that is where we are going to be unless we can resolve this in the Senate, which we could do by the end of the week.

Why? Why has the White House used obstructionist tactics to prevent the Senate from passing a FISA bill that it wants, that it has declared acceptable?

The President says he wants the Intelligence Committee bill passed as soon as possible. He said as recently as last Friday that he understands there may be some limited number of changes that will be needed to make the bill stronger. Others, including Minority Leader MCCONNELL and Vice Chairman BOND, also have acknowledged the reality that amendments will have to be brought up and voted on before the Senate can pass the bill. That is, after all, the way of the Senate.

Why, then, are they preventing the Senate from voting on the limited number of amendments before us and passing the bill, a bill that they want? Why? A bill that has everything to do with the future of our country, our national security, and a bill which we will not soon come to again if we don't achieve success in the coming days.

The majority leader has repeatedly offered the proposal to extend the February 1 expiration date in the current stopgap law 30 days to allow sufficient time to complete our work on the legislation. But each time this 30-day extension consent request was sought, it was killed by the Republican leadership under orders from the White House.

Why in the world would a temporary extension be objectionable to a President who is on record as saying he doesn't want the current law to expire without a more lasting FISA modernization bill in place? Yet, in one of the most astounding ''Alice in Wonderland'' moments I have ever witnessed in my time in the Senate, the White House announced last week that the President would veto a 30-day extension of the current foreign collection authorities passed by Congress.

So let's recap. The President wants the FISA bill passed by the Senate, but he has sent the decree down to the Republican leadership that they are to prevent its prompt passage. Well, prompt passage we have to have. The President does not want the current 6-month Protect America Act to expire this Friday. He does not want that to happen. But he has stated he will veto any extension and thereby ensure that it will expire. What more evidence is needed to demonstrate the irrational and self-destructive political addiction that drives this White House? Doesn't drive the vice chairman of the Intelligence Committee, I guarantee that.

Under the tortured logic of protecting America against terrorism, the White House has decided to exercise, frankly, its own form of political terrorism and has taken the FISA bill hostage.

From the beginning, the administration has demonstrated a deep-seated contempt for the role of Congress in authorizing and monitoring intelligence activities.

Whether it is the National Security Agency's warrantless surveillance program or the Central Intelligence Agency's secret detention and interrogation program, the White House for over 5 years walled off the Congress and the courts from conducting the sort of meaningful oversight and checks and balances that are essential to making sure our intelligence programs are on sound legal operational footing.

To make matters worse, the administration has successfully used objections and delaying tactics over the past 3 years to keep the intelligence authorization bill from being passed and signed into law. It is this flawed policy of Executive Branch unilateralism that has created the mess we are now dealing with.

There is no possible way I can overstate the importance of this bill. But it is hard to explain. Everybody can grasp on to the immunity issue, leap to one side or the other, often without sufficient thought. But the bill as a whole, meshed together as a whole like an Appalachian quilt, is a thing of beauty, can be improved, and should be passed.

Nevertheless, I urge my colleagues to oppose the Republican cloture motion on the FISA bill so that we can reassert something called the role of Congress that we must play on these and other important national security matters. Oversight is what we do. We don't write a lot of bills in the Intelligence Committee, but we do oversight. But it is not welcome in the current atmosphere.

I urge my colleagues to oppose the Republican cloture motion so that we can consider on their merits the limited, manageable number of amendments to the bill and, in the process, push bipartisan FISA reform across the finish line.

I know Vice Chairman BOND and others are ready to get back to business and start disposing of amendments. I feel confident that he and I, as managers of this bill, will work closely, as we have in the committee, to ensure that we do no unintended harm to this bill in the matters of collection of intelligence or any other unbalancing of this Appalachian craftwork.

There is still time for the Senate to work its way on the FISA bill and pass it before the week's end. I hope we do so.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, it is my understanding that this side has 40 minutes of debate; is that correct?

The ACTING PRESIDENT pro tempore. The Senator's side has 46 minutes.

Mr. BOND. Mr. President, I ask unanimous consent that that be divided; that I be allocated 15 minutes and that I be notified when my 15 minutes is up; that at the appropriate time, the Senator from Texas be recognized for 15 minutes; and then, after intervening discussion from the other side, the Senator from Georgia, Mr. CHAMBLISS, be recognized for 5 minutes. I would reserve the remainder of the time for closing argument.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. I thank the Chair.

Mr. President, we began consideration of this bill on December 17, the FISA Amendments Act of 2007. As my friend the chairman said, it was passed by the Senate Intelligence Committee with overwhelming bipartisan support. It has garnered the support of the Director of National Intelligence, and I believe it is the way forward.

I was a bit amused to hear my friend say that the FISA bill was being taken hostage; they were scoring political points. I haven't heard from the White House anything other than they want to have this bill passed.

We have sought to protect the rights of Republican Members on the minority side. We have suggested that this bill is so controversial, as all intelligence bills are, that amendments be subjected to a 60-vote majority. The simple fact is, we could pass perhaps a number of amendments that could destroy the structure of the bill we have presented and put us in the position where it would not get the 60 votes needed to pass.

My suggestion is that we move forward accepting some amendments. There are amendments on both sides, I agree with the chairman, that can be accepted. Maybe we could even accept them without a vote or accept votes on others at a simple majority, a 51-vote majority, and then on certain controversial ones, we may have to have 60 votes. But we are ready to move forward. We are not the ones who have held up this bill. Very briefly, in April, the Director of National Intelligence, Admiral McConnell—and I will refer to him as the DNI—sent a bill to the Senate Intelligence Committee and said FISA is out of date. It has to be updated. He came before us and testified in May. I asked him to do something.

Nothing happened. He came before the full Senate, actually, in closed session, all Senators invited; that was in June. He explained how urgent it was and how we were being left deaf and blind to communications of terrorists. Nothing happened.

It was at the end of that session, going into the August recess, that he proposed a temporary shortened version of FISA which became the Protect America Act. I was pleased to support that in the Senate. It passed the House and was signed.

We came back in September, knowing we had to work together on a bipartisan basis, and the Senate Intelligence Committee and staff worked very hard on a bipartisan basis to produce a bill, a very good bill. It was the ultimate compromise. There were some on both sides who were sullen but not rebellious. But we got the job done. We provided the tools the intelligence community needed and significantly expanded the protection of American civil liberties and privacy rights.

The bill sat on the floor in October. It finally came to the floor December 17. A number on the majority side spoke out against the civil liability protection afforded providers who allegedly assisted the Government with the President's terrorist surveillance program, or TSP. They criticized various provisions in the Intelligence Committee bill. They spoke in favor of what regrettably was a partisan Judiciary Committee substitute.

Debate is good for democracy but only if it is based on facts. Unfortunately, during the December filibuster, we heard a number of allegations, accusations, and even misrepresentation about the committee's bill and the TSP. Some of those comments will be repeated today.

Our intelligence community professionals must have the tools they need to protect us. This is not the time to pass legislation that will make people feel good or will score political points. We must pass a bill the DNI will support and, thus, the President will sign. That should be our goal. Distorting the truth will not help us get there.

The record must be set straight, and these are some of the myths we have heard. What are the facts? We were told that a ''new and aggressive'' interpretation of article II authority was used to justify the TSP. There is nothing new or aggressive about relying on the President's article II authority in the context of foreign intelligence surveillance.

Courts, including the FISA Court of Review in the 2002 In re: Sealed Case decision and the Fourth Circuit in the Truong case, have long recognized distinctions between domestic and foreign surveillance and the President's constitutional authority to conduct foreign intelligence surveillance. Nor is it ''an invitation to lawlessness'' to argue that the President has inherent constitutional authority to wiretap without a court order. The Constitution is the highest law of the land and trumps any statute.

In 1978, when Congress recognized the tension between FISA and the President's inherent authority under article II, they noted that warrantless surveillance for foreign intelligence gathering has been an integral part of our Nation's foreign intelligence. During World War II, our warrantless surveillance of the German and Japanese militaries and the breaking of their codes preserved our democracy. More recently, the Clinton administration conducted a warrantless search of the residence of convicted spy Aldrich Ames.

The Intelligence Committee conducted a comprehensive, bipartisan review of the TSP. There is no evidence to substantiate the claims that the administration began its warrantless surveillance before September 11 or that the TSP covered domestic calls between neighbors, friends, and loved ones. As the President has stated, the TSP collected international calls involving members of al-Qaida.

For many months, critics have argued that TSP could have been conducted under FISA. That argument needs to be laid to rest. A decision by a FISA court last spring proved that the TSP could not have been done under FISA as it existed. The court decision resulted in significant intelligence gaps which led to the passage of the Protect America Act.

I was not there, but I understand this matter was discussed by the President with the top leaders of this body and the other body, as well as the Intelligence Committee, and was told at the time it would not be possible to redraft and change the old FISA law in time to collect the critical information they hoped to gather before attacks occurred immediately following September 11.

The liability protection for those carriers who allegedly assisted the Government with the TSP lies at the heart of this legislation. The President did what he had to do under article II, and our country was safer for it, and our country was safer because some of the carriers alleged to have participated acted in reliance and good faith on orders of the Attorney General, transmitting the President's order—and the intelligence community.

In his original FISA modernization request in April of 2007, the DNI asked for full liability protection for all those allegedly involved. Some Members have attacked DNI McConnell's integrity, calling him ''an accidental truth teller'' and accusing him of backing out of an agreement made under the PAA. These comments are not only unjustified, unwarranted, and unfair, they are counterproductive. Throughout this debate, the DNI and other intelligence professionals have given us unbiased advice and technical assistance. They have assisted Democrats and Republicans. We need to focus on the task at hand, not engage in personal attacks against a man who has served his country honorably in the military and the intelligence community, and continues to do so as head of the community.

Some of the Members have downplayed the need for liability protection. They argue that carriers already have statutory immunity and that continued litigation will not harm providers or our intelligence efforts. These statements reflect a startling lack of knowledge about our intelligence collection, which is dangerous to the continued operation of our gathering.

First, the companies cannot prove they are entitled to statutory immunity because the Government must assert state secrets to protect their intelligence collection methods. Second, while it is true that the existence of the TSP has been revealed, there are still, fortunately, a few details about the program that have not. Each day the lawsuits continue—with the prospect of civil discovery—there come new risks that sensitive details about our intelligence sources and methods will be revealed. As General Hayden stated a year and a half ago: The disclosure of the TSP has had a significant impact on intelligence gathering of terrorists. We are applying the Darwinian theory. We are only capturing the dumb ones. We should not give terrorists additional insight through continued TSP litigation.

Further, our intelligence and law enforcement agencies rely on the willingness of providers to cooperate—in emergencies, as with the kidnapping of a child, or when court orders are not required. Yet some carriers have already told us if they do not get liability protection, they will not be able to risk their business, their reputation, by continuing to help without court orders. That would be devastating to our intelligence collection.

Our committee weighed all these arguments for and against liability protection. We concluded by a 12-to-3 bipartisan vote that civil liability protection for providers—and only providers, not Government officials—was not only fair, it was the only way to safeguard our intelligence sources and methods, and to ensure the continued cooperation of the providers.

Substitution is not a solution since it would allow civil discovery to proceed against providers, still leaving them open to disclosure and exceedingly serious competitive and reputational harm, perhaps even physical retaliation by radicals who oppose our intelligence gathering. The intelligence community advised us through testimony and gave us documents that these companies acted in good faith, and we in the committee agreed with them. The providers who may have participated relied upon representations from the highest levels of Government.

There is no need to create a statutory mechanism for a court, whether it be the FISA Court or any other, to second-guess this determination. Allowing

a court to do so would throw uncertainty into an area where the committee's intent is clear: The ongoing civil litigation against providers must end. On this last point, the term ''amnesty'' was tossed around in December. But that incorrectly assumes that alleged carriers did something illegal. These carriers do not need amnesty. They did nothing wrong. They deserve liability protection.

As I mentioned earlier, the DNI said he will support the Intelligence Committee's bill with two revisions. Yet some Members insist there are fatal flaws. We heard, No. 1, that there are no consequences if the FISC rejects the targeting/minimization procedures; No. 2, the bill does not contain a ''reverse targeting'' prohibition; and, No. 3, it allows warrantless interception of purely domestic communications. A plain reading of our bill shows that each one of these arguments is false.

The bill that came out of our committee goes farther than ever before in providing a meaningful role for the courts and Congress in overseeing acquisitions of foreign intelligence. The FISA Court will review the targeting and minimization procedures to ensure they comply with the law. If the court finds any deficiency, it can order the Government to correct the deficiency or cease the acquisition.

There is nothing—I repeat, nothing—in this bill that will allow warrantless wiretapping of Americans in violation of title III criminal wiretaps or FISA. There are explicit prohibitions against ''reverse targeting'' and the targeting of the person inside the United States without a court order. Americans abroad are given new FISA Court protections. The acquisitions must also comply with the fourth amendment. These are major new protections for Americans. Yet in spite of these measures—protections we have never seen before in the world of foreign targeting—we have been told the intelligence community will still target innocent Americans, listening to calls between parents and children overseas, between students and their friends studying abroad. That is absolute nonsense. The Intelligence Committee's bill only allows targeting of persons outside the United States to obtain foreign intelligence information. This is not a dragnet of surveillance. We are not listening to, quote, completely innocent people overseas, unquote, as some have claimed. The targets must be foreign targets—suspected terrorists or terrorist group members—and the Attorney General and the DNI must certify that a significant purpose of the acquisition is to obtain foreign intelligence information.

For example, if a foreign target is believed to be an agent or member of al-Qaida, then all communications will be intercepted. Only Americans who communicate with that target will have those specific conversations monitored. If those same conversations turn out to be purely innocent, they will be ''minimized,'' or suppressed. Even if the communication contains foreign intelligence information, it is likely, in many instances, the identity of any U.S. person will be masked—or protected—in any intelligence reporting. Americans' privacy rights are protected up to the point where they are actually engaging in a terrorist operation.

Mr. President, I see my time is running out. I will reserve the remainder of my time. I will give the rest of my remarks at a later time.

Thank you.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield 7 minutes to the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the chairman of the Intelligence Committee.

The Senate should not be having a cloture vote on this legislation today. What we should be doing is considering and voting on the amendments that I and my colleagues tried to bring up last week, and other amendments that have been proposed to improve this badly flawed bill. But the minority does not think we should have the right to actually legislate here. They expect this body to rubberstamp that bill.

I am afraid I have to say the conduct of the minority has been very disturbing on this. They insisted for weeks that it is absolutely critical to finish the FISA legislation by February 1, even going so far as to object repeatedly to efforts by the majority leader to extend for only 1 month the Protect America Act—a law they rammed through this Chamber in August—and they still don't want to give us another month so the Senate can carefully consider changes to it.

So the majority leader brought to the floor the Intelligence Committee bill, the legislation that the minority wanted to consider and urged the Senate to stay in session through the weekend to complete work on it. I criticized the majority leader for bringing the Intelligence Committee bill to the floor because I thought the Senate should be working from the much better bill reported by the Judiciary Committee, on which I also serve, but I would have thought the minority would be pleased by the majority leader's decision.

So what have they done in response? They have obstructed all efforts to actually work on this bill. They will not allow me to get a vote on the one amendment I have offered—an amendment cosponsored by Senator HAGEL—and they will not allow me or anyone else to offer any other amendments. They filed for cloture the day this Senate began working on the bill, after allowing only a single amendment to be called up. They have effectively halted Senate consideration of this bill, despite the fact they are the ones—they are the ones—who are arguing that the February deadline is so critical. They seem to think that scare tactics peddled by administration officials, such as the Vice President, will be enough to pressure the Senate into letting them have their way. I certainly hope they are wrong.

Mr. President, as you well know, this legislation is in serious need of fixing. It authorizes widespread surveillance involving Americans at home and abroad. Yes, it does. Despite what the Senator from Missouri said, it certainly does do that. I have a number of amendments I want to offer, both to ensure that the FISA Court has more authority to oversee these authorities, and to guarantee Americans their fourth amendment rights. But I cannot even get a vote on the one, simple, straightforward, and extremely modest amendment I offered last week. This demonstrates how brazen these tactics are. This bipartisan amendment would merely require that the Government provide copies of important FISA Court orders and pleadings for review to the committees of jurisdiction in a classified setting, so that Members of Congress can understand how FISA has been interpreted and is being applied. You would think this amendment would be, as they say, a no-brainer, and yet the minority will not even consent to a vote on that.

But at least that one amendment is pending, and we will get a vote eventually. If the Republicans succeed in cutting off debate on this legislation, the Senate will not be able to vote on any other amendments, including the amendment Senator DODD and I wish to offer to deny retroactive immunity to telecom companies that allegedly cooperated with the administration's illegal wiretapping program. It is unconscionable to think that the Senate should have to make a final decision on this legislation without even having an opportunity to debate and vote on whether to grant retroactive immunity to companies that allegedly cooperated with an illegal program.

And why are we in this situation? Because the minority and the administration think they are entitled to ram the deeply flawed Intelligence Committee bill through the Senate without any changes. It seems they are worried the Senate might actually pass some of the very reasonable amendments I and others would like to offer if they give us a chance to do so or perhaps they are trying to sabotage the bill and then figure out a way to blame that outcome on Democrats.

No Senator—no Senator—should go along with these cynical, strong-arm tactics. We have to stand up to the administration and stand up for our rights.

I strongly urge my colleagues to oppose cloture. Invoking cloture on this bill would be an abdication of our responsibility to consider legislation that will have a huge impact on the

American people for years to come. I hope even those who support the Intelligence Committee bill will think twice before voting to make this body a rubberstamp.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I don't know why any Member of the Senate would object to procedures we would employ within the bounds of the law to listen to communications of terrorists in order to detect and deter further terrorist attacks on our own soil or against Americans or our allies. That is what this legislation does. Unfortunately, I think we are beginning to see a dangerous trend on the part of the Senate: Never failing to put off until tomorrow what we could and should do today.

This legislation has been considered for an awfully long time, as we all know, in a bipartisan vote of the Senate Intelligence Committee, 13 to 2. In October, this legislation was voted out of the Intelligence Committee in a carefully crafted attempt to consult with the Director of National Intelligence, the head of the Central Intelligence Agency, and all other intelligence community members who might be impacted by this legislation. There has been opportunity after opportunity for input into this legislation by Members of the Senate. Yet we hear today there are those on the floor of the Senate who are saying: Well, let's not vote on this legislation now. Let's kick the ball down the road another month so we can have the same debate, the same discussion we have been having for all those many months leading up to this point. The only reason we are where we are today is because we were unable to get a lengthy extension of the Foreign Intelligence Surveillance Act in August. Because of objections by those on the other side who are complaining about this legislation again today, we were only able to pass this legislation until December and then another extension was granted until February 1, when this Protect America Act expires of its own terms. I would hope this body would continue to act in a strong bipartisan manner in which the Intelligence Committee has voted this bill out of the Intelligence Committee by a vote of 13 to 2.

I appreciate the fact that this body tabled the Judiciary Committee's partisan substitute and sent a signal that bipartisanship and consensus may once again become ascendant in matters of national security in the Senate. I think we would see that as a welcome development. At a time when we are talking about an economic stimulus package and seeing cooperation from the Speaker and the minority leader in the House and the President of the United States on matters affecting the economy, why can't we get that same sort of bipartisan cooperation on matters affecting national security?

Today, the Senate is poised to move this critical national security legislation one step closer to the President's desk. Today's vote will tell us much more about whether this Senate is ready to set aside partisanship and willing to get the job done.

Members of this body will remember that in December we had to pass an Omnibus appropriations bill that affected all discretionary spending of the U.S. Federal Government because we had been unable to pass 11 out of the 12 appropriations bills that it was our responsibility to pass. Unfortunately, this Senate has an unfortunate recent tendency to put off things until tomorrow what we should and could be doing today, and we should not let that happen. We need to finish this legislation to give Members a chance to debate and then to vote.

I don't favor each and every provision included in the bipartisan compromise that is sponsored by Chairman ROCKEFELLER and Vice Chairman BOND, but I do appreciate the fact that it is a carefully crafted compromise. It is a bipartisan compromise. It is the product of extensive consultation and negotiation with the experts in our intelligence and defense communities.

In other words, this legislation reflects the valuable and necessary input of the very men and women who are currently intercepting phone calls, text messages, and e-mails between al-Qaida and their operatives—those who wish to do America and America's interests harm.

The Senate has two choices today as the deadline for action rapidly approaches on February 1. On the one hand, we can show the American people that at least when it comes to matters of national security, it is possible to put partisanship aside and to get the job done in a bipartisan way. The other choice, which the majority leader has proposed, is we ask the American people for an extension, that we kick the can down the road for another month, only to find ourselves back in precisely the same posture we are in today: With no issues resolved and with the same old debates to be rehashed when we ought to finish the job today and follow the path of maximum responsibility.

I ask my colleagues: What excuse could there possibly be to put the tough choices off for another month? What justifies asking the American people for more time to get the job done when we know what the choices are and we have simply to make those choices by our vote today. We have had 6 months since the Protect America Act was passed in August of last year to get the job done. In that time, this legislation has been subjected to scrutiny by two Senate committees, and there has been significant time debating this legislation on the floor.

The fact is there is no acceptable excuse for failing to do our duty and our job. The excuses offered for delay are as compelling as the old school house claim that my dog ate my homework, I couldn't get it done.

I say no more excuses, no more extensions. It is time for Congress to come together in a bipartisan fashion in the national security interests of the United States.

It is specious to say there is no consequence to another extension, and it is the height of irresponsibility to argue that delay is the only responsible choice. As America's elected leaders, we have a responsibility to keep America safe. We cannot simply close our eyes and wish away the terrorist threat. It is easy this many years after September 11 to be lulled into a false sense of security as time takes us further away from that terrible attack on American soil. But it is undeniable that the threat from al-Qaida and Islamic extremists remains.

In the face of the very real threat of radical Islamic terror, Congress must be resolute and we must eschew attempts to split along partisan lines, and we must embrace bipartisan solutions to our very real national security problem. That is what a vote on the Senate Intelligence Committee bill would reflect: a bipartisan solution to a national security challenge.

That is why it defies credibility to argue that the responsible thing to do is to put the job off for another month. The majority leader's plea for an extension implies that the only two choices we have are, on the one hand, an extension for 1 month and, on the other hand, no bill at all. Neither of those is a responsible choice.

In fact, there is a third option, and that option is for the Senate to pass a consensus bill that has the bipartisan support of the chairman and vice chairman of the Intelligence Committee and a bipartisan majority of the Senate, experts in the intelligence community, and the President of the United States.

Let's be clear about what an extension means. An extension means further delay. It means putting off tough choices. It means not only to do so in a time of war but in a time of economic fragility, when we have other work we need to be doing on the floor of the Senate that is being taken up unnecessarily by repeating the same arguments over and over without any conclusion. It also means Congress has lacked the courage to relieve some of America's leading companies from the burdens and costs of litigation arising from their cooperation in the war on terror.

Let us remember the telecommunications companies that may have cooperated with our Government at the request of our President, and upon the certification of the Attorney General, the chief law enforcement officer, that what they were being asked to do was within the law. To continue to subject them to litigation for doing their civic duty, to incur ongoing expense and inconvenience and to risk information that is sensitive to our security coming out during the process is simply not a responsible option.

Some in Congress apparently think these companies should have second-guessed the legal representations made by the President and the Attorney General in the days and weeks and months following the 9/11 attacks. Some in Congress have argued that the companies had a duty not to cooperate, a duty to refuse to assist this Nation's intelligence community with tracking terrorists during wartime. That is, unfortunately, how far we have come in this debate and how off the mark some have come.

These companies, as every good citizen who cooperates with their Government to try to keep America secure in good faith, deserve the protection we are being asked to give them in this legislation. These costly lawsuits have not only put in jeopardy the future cooperation of these firms but also the critical national security concerns potentially exposed to the discovery process in civil litigation. It may be popular in some quarters to bash corporate America, but that rhetoric is sorely misplaced in this debate. The men and women who manage these companies made a good-faith decision to do their patriotic duty—to help their Government to track terrorists and to save American lives, and they should not be punished for it. They should be thanked for their cooperation.

For Congress to allow these burdensome lawsuits to continue this long is unfortunate and unjust indeed, but for Congress to continue to put off the tough choices and leave these companies in legal limbo is not only unfortunate and unjust, it is also irresponsible. Now is the time for Congress to decide the question—no more excuses, no more delays, no more extensions. Today, the Senate can choose a path forward, a bipartisan path on critical national security measures, and I urge all my colleagues on both sides of the aisle to work together to move this bipartisan bill forward by voting for cloture at 4:30.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise today in support of cloture on S. 2248, the Foreign Intelligence Surveillance Amendments Act, or FISA Amendments Act. Time is running out on congressional action to fix FISA. The Protect America Act, which Congress passed in August to close gaps in our foreign intelligence collection, expires this Friday, February 1, 2008.

Prior to congressional action in August, our intelligence community was unable to collect vital foreign intelligence without the prior approval of a court. And I emphasize in that ''foreign'' intelligence. This will be the case again if we do not make permanent these changes. Before August, if our intelligence community wanted to direct surveillance at an al-Qaida member located in Pakistan who was communicating with an operative terrorist in Germany, they would have to first petition the FISA Court for approval. In August of this year, our intelligence community told us that without updating FISA, they were not just handicapped, but they were hamstrung.

The Protect America Act temporarily fixed the intelligence community legal gaps. The Director of National Intelligence highlighted some of the critical intelligence gained under the Protect America Act, including: insight and understanding leading to disruption of planned terrorist attacks; efforts of an individual to become a suicide operative; instructions to a foreign terrorist associate about entering the United States; efforts by terrorists to obtain guns and ammunition; terrorist facilitator plans to travel to Europe; identifying information regarding foreign terrorist operatives; plans for future terrorist attacks; and movements of key extremists to abate a risk. With the Protect America Act set to expire, Congress must act swiftly before our core collectors are faced with losing this kind of valuable intelligence as a result of inaction by Congress.

Although the Protect America Act enabled the intelligence community to continue its important work, Congress would be derelict in its duties to merely extend the expiration of this act.

The Senate Intelligence Committee has been reviewing and drafting FISA legislation since April of last year. Last fall, the committee considered and passed the bill that is now before us. In December, the bill came to the Senate floor for consideration, but some of my colleagues on the other side of the aisle delayed its consideration. We are now faced, after almost 10 months of thorough consideration, with the ability to pass legislation which will improve our intelligence collection and which contains safeguards for U.S. citizens' privacy rights that the Protect America Act does not contain.

The FISA Amendments Act contains a clear prohibition against intentionally targeting persons located inside the United States and a prohibition on reverse targeting of U.S. persons, which the Protect America Act does not. The FISA Amendments Act makes clear that the FISA Court approval is required for intentionally targeting U.S. persons abroad and requires that any collection be consistent with the fourth amendment. Most important, the FISA Amendments Act contains retrospective immunity for our telecommunications carriers that may have assisted the Government in protecting American lives.

Extending the Protect America Act does not ensure the continued and necessary cooperation of those who may have assisted the Government with the terrorist surveillance program after September 11.

The Government often needs assistance from the private sector in order to protect our national security. Telecommunications carriers may provide the Government access to communication contents and records pursuant to many Federal processes, including judicial warrants, subpoenas, title III orders, FISA orders, attorney general certifications, administrative subpoenas, national security letters, and other statutory authorizations. In return, they should be able to rely on the Government's assurances that the assistance they provide is lawful and necessary for our national security.

In Smith v. Nixon, the U.S. Court of Appeals for the District of Columbia suggested that the Government's request to wiretap a home telephone was illegal. Yet they dismissed the telephone company from any liability because of the assurances they received from the Government, the reasonable expectation of legality, and their limited technical role in assisting the Government in surveillance initiated by the Government.

As precedence suggests, America's telecommunications carriers should not be subjected to costly legal battles and potentially frivolous cases, yet ones which could expose intelligence sources and methods, harming our national security, merely for their good-faith assistance to the Government. It is necessary and responsible for Congress to provide telecommunications carriers with liability relief.

I urge my colleagues to support cloture on the Rockefeller-Bond substitute amendment and oppose a simple extension of the Protect America Act. Senators ROCKEFELLER and BOND have worked hard and long hours to make sure we got it right in this bill that came out of the Intelligence Committee. After many hours of negotiating, debate, and hard work, it would a shame to see this bill not come to fruition and pass this body at this point in time. Our intelligence community needs the tools and additional safeguards provided in the FISA Amendments Act to keep our people safe, and Congress needs to act quickly before the Protect America Act expires and these tools are taken away.

Mr. BIDEN. Mr. President, I rise today in opposition to the Intelligence Committee's version of the Foreign Intelligence Surveillance Amendments Act of 2007. It is without question that I support giving the administration the surveillance tools it needs to keep us safe. But Congress has both a duty to keep the American people safe and uphold the Constitution.

It is therefore incumbent upon us in the Senate to craft clear legislation that protects both our national security and our civil liberties. We can do that by passing the Judiciary Committee substitute, which gives the administration the tools it needs to collect foreign intelligence and protects innocent Americans by ensuring that the FISA Court, and not the Attorney General, decides whether surveillance of a U.S. person is proper.

One of the defining challenges of our age is to combat international terrorism while maintaining our national values and our commitment to the rule of law and individual rights. These two obligations are not mutually exclusive. Indeed, they reinforce one another. Unfortunately, the President's national security policies have operated at the expense of our civil liberties. The examples are legion, but the issue that prompted the legislation before us today is one of the most notorious—his secret program of eavesdropping on Americans without congressional authorization or a judge's approval.

After insisting for a year that the President was not bound by the Foreign Intelligence Surveillance Act's clear prohibition on warrantless surveillance of Americans, the administration subjected its surveillance program to FISA Court review in January of last year.

Then, last August, citing operational difficulties and heightened threats that required changes to FISA, the administration passed the Protect America Act—over my objection and that of many of my colleagues. The Protect America Act, which sunsets at the end of this month, amended FISA to allow warrantless surveillance, even when that surveillance intercepts the communications of innocent American citizens inside the United States.

The administration identified two problems it faced in conducting electronic surveillance under FISA. First, the administration wanted clarification that it did not need to obtain a FISA warrant in order to conduct surveillance of calls between two parties when both of those parties are overseas. Because of the way global communications are now transmitted, many communications between people all of whom are overseas are nonetheless routed through switching stations inside the United States. In other words, when someone in Islamabad, Pakistan, calls someone in London, that call is likely to be routed through communications switching stations right here in the United States. Congress did not intend FISA to apply to such calls, and I support a legislative fix to clarify that point.

The second problem the administration identified is more difficult. Even assuming that the government does not need a FISA warrant to tap into switching stations here in the United States in order to intercept calls between two people who are abroad—between Pakistan and England, for example—if the target in Pakistan calls someone inside the United States, FISA requires the government to get a warrant, even though the government is ''targeting'' the caller in Pakistan.

The administration wants the flexibility to begin electronic surveillance of a ''target'' abroad without having to get a FISA warrant to account for the possibility that the ''foreign target'' might contact someone in the United States. I agree with the administration's assessment of the problem, but I don't support its solution.

The administration's proposal, which is reflected in the Intelligence Committee's version of the FISA Amendments Act, would significantly expand the scope of surveillance permitted under FISA by exempting entirely any calls to or from the United States, as long as the government is ''targeting'' someone reasonably believed to be located outside the United States.

The government could acquire these communications regardless of whether either party is suspected of any wrongdoing. The Attorney General and the Director of National Intelligence would make the determination about whom to target on their own, and they would merely certify, after-the-fact, to the FISA Court that they had reason to believe the target was outside the United States, regardless of how many calls to innocent American citizens inside the United States were intercepted in the process.

This Intelligence Committee bill authorizes surveillance that is broader than what is necessary to protect national security and that is why I oppose it.

The Intelligence Committee bill offers no protection for the innocent Americans who communicate with overseas relatives, business partners, or friends. Indeed, it allows the government unfettered access to these innocent Americans' communications. And once the government collects these communications, it can share them with other agencies throughout the government.

The Judiciary Committee substitute—which authorizes much broader surveillance powers than the government had under FISA before the Protect America Act became law—offers several significant protections. I will mention a few: First, the Judiciary Substitute protects against the ''bulk collection'' of communications by requiring the government to target a specific person or phone number abroad, rather than allowing the acquisition in bulk the millions of communications going into and out of the United States. Second, it requires the government to obtain an individualized warrant from the FISA Court if the government's acquisition of a person inside the United States becomes a significant purpose of its surveillance of the foreign target. Third, it provides for much more robust and meaningful congressional oversight. And fourth, it does not provide retroactive immunity for the telecommunications carriers.

I oppose granting retroactive immunity because if the carriers violated clearly stated Federal law, they should be held accountable. Cases against the carriers are already making their way through the courts. Retroactive immunity would undermine the judiciary's role as an independent branch of government. Furthermore, the provision that holds carrier liable for violations of the act is an important enforcement mechanism. It is fundamental to securing the privacy rights that FISA was meant to protect.

When the Senate passed FISA, after extensive hearings, 30 years ago by a strong bipartisan vote of 95 to 1, I stated that it ''was a reaffirmation of the principle that it is possible to protect national security and at the same time the Bill of Rights.'' I still believe that's possible, but not if we enact the Intelligence Committee bill.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CARDIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the time for the quorum we will go into be equally divided between Senators BOND and ROCKEFELLER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. Twelve and a half minutes.

Mr. BOND. Mr. President, while we are waiting for Members of the other side to come forward, I will make a few remarks, and we will see if we have some others join us.

I was talking about some of the proposed amendments and questions that have arisen about this bill. There are some who would demand that a court order be obtained any time a call involved a U.S. citizen. But anybody who understands FISA or intelligence collection knows that is operationally impossible.

For 30 years, the intelligence community has used minimization procedures when inadvertently intercepted calls come to or from nontargeted U.S. persons. So far, we are totally unaware of any abuses of this system. The minimization procedures have worked well. They worked well when information was being collected by radio, without a FISA Court order, and they continue to work well because the well-trained people who run the NSA operations are overseen by multiple layers of supervisors and inspectors general and attorneys from the Department of Justice.

There is no way to know, when a terror suspect places a call from a location in the Middle East, whether that

person is going to call someone in his country or a neighboring country or the United States. So if you say you cannot intercept that call if it goes to a U.S. person, what, in effect, you are saying is you cannot intercept that call because you don't know where the call is going. So it means there will have to be an order for every foreign terrorist surveillance conducted by the NSA, and that is totally unworkable. We have seen that before. That shut the system down. It is unsound policy to require a FISA Court order if a terrorist target abroad calls a U.S. person. That may be the most important call to intercept in order to protect us from a terrorist attack at any time, and time matters. Do we really mean that the call cannot be intercepted until a court filing is prepared and reviewed by Government lawyers and that the FISA Court must review the application and supporting amendments? I hope not. Our enemies are not stupid. They would figure out very quickly that they can slow us down and bring our intelligence community to a halt simply by placing periodic calls to the United States.

Some believe that the FISA framework in place is enough to keep us safe and that we don't need the Intelligence Committee bill. I find that comment disturbing. It is the FISA framework that created significant intelligence gaps threatening the security of our Nation. It is only because we passed the Protect America Act that those gaps were closed.

I have already spoken about the problems with the Judiciary Committee bill. I wish to address some concerns and some ideas raised about the Foreign Intelligence Surveillance Court, the FISA Court.

I think our bill out of the Intelligence Committee strikes the appropriate balance between providing tools needed to collect intelligence and a meaningful oversight role for Congress and the FISA Court.

There are a lot of misperceptions about the FISA Court. As mentioned previously, for example, there are those who suggest the court should have decided whether providers acted in good faith before immunity is granted. We were told this makes sense because the court ''sits 24/7 and this is all they do. They would act en banc.'' That is not accurate. The FISA Court does not sit 24 hours a day, 7 days a week. It is composed of U.S. judges from U.S. district courts throughout the country who have their own full caseloads and come to Washington, DC, on a rotating basis simply, as the enabling legislation says, to issue FISA Court orders. As a result, it would be difficult to get them to sit together.

Given the court's facilities, it is not set up to preside over litigation. We were told that this is why the FISA Court was set up, but the legislative history and the measures——

The PRESIDING OFFICER. The Chair advises the Senator that he is going into the time reserved for the Republican leader.

Mr. BOND. Mr. President, I will then close and urge that our colleagues adopt cloture so that we may move forward on this very important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Nineteen and a half minutes, with 10 minutes reserved for the leader.

Mr. ROCKEFELLER. I yield 9½ minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank the manager of the legislation, Senator ROCKEFELLER. Once again, I will say that I have great admiration for the work done by the committee. It is not an easy matter. The Intelligence Committee has serious work to do. Much of what they have done, I agree with. My objections here this afternoon are focused on one aspect of the legislation rather than the cumulative effort the committee has made.

Let me address the issue we will be voting on, and that is cloture. That is a critical issue for all of us.

Aside from the question of whether I agree or disagree with various amendments, or even the bill, we find ourselves in the midst of a parliamentary nightmare. We have been in this position since late last year, going back to December.

So much hinges on this bill. It will set America's terrorist surveillance policy well into the next Presidential term and beyond if a period of 6 years is adopted or even the 4 years suggested by Senator CARDIN and others. Depending on the outcome of the debate, this legislation has the power to bring that surveillance under the rule of law or to confirm the President's urge to be a law of his own. It has the power to bring the facts of warrantless spying to light and to public scrutiny, or to lock down those facts as the property of only the powerful.

It has the power, obviously, to declare the same law applies to all of us regardless of economic circumstances, well connected or not, or to set the precedent that some corporations are far too rich, far too affluent to be sued, that immunity can effectively not be brought against them.

Wherever you come down on these choices—and I know there are those of us who have different opinions—you certainly cannot be neutral, in my view. None of us can be neutral on a matter such as this. This is one of the most important and contentious pieces of legislation we will debate in this session, and I argue any session of Congress, and yet the Senate is frozen today.

I objected passionately to retroactive immunity, but I did not shut out debate. Republicans have frozen this body since debate began, not only last week but going back further, and they unwittingly created a perfect microcosm of retroactive immunity right here in this body. Because both flow from the same impulse: shutting down the organs of Government—in this case, the legislation, the courts, and now, because of the procedural nightmare we find ourselves in, the Senate—when you are afraid, of course, you will not get your way. That is why President Bush wants his favored corporations saved from lawsuits, it appears. That is why the minority party wants this bill saved from any and all amendments, saved from serious and thoughtful discussion.

As a committee chairman myself, as I pointed out the other day, I wish I had the privilege being requested by the minority. I sometimes wished the bills we passed out of committee would have swept out of this body when I came to the Senate floor without a single amendment. That is not how this body works. It was never intended to work that way. It is certainly not the way the Founders intended it to work.

Amendments are not entitled to pass, but they are entitled to a fair hearing, a fair debate, and a fair vote. The minority can object as strenuously as it wants, but it must do so fairly. I accept that principle, even when it does not go my way; even on immunity itself, I understand a minority cannot stand forever. Is it too much for Republicans to extend the same courtesy?

On a bill as important as this one, it would be ridiculous to curtail debate, shut out new ideas, or rush to a conclusion without even extending the Protect America Act for a month to give us the time we need. Whether you agree with them or not—and some I disagree with myself—the amendments offered by my Democratic colleagues are serious proposals and deserving of serious consideration.

Shouldn't we debate whether this new surveillance regime ought to stay inflexible through the next Presidential term and into the one after that?

Shouldn't we debate whether we are going to categorically outlaw unconstitutional reverse targeting or indiscriminate vacuum cleaner bulk collection?

Shouldn't we debate whether Congress even gets to see the secret rulings of the FISA Court?

Those are some of a few of the well-intentioned proposals we need to consider before we vote on this bill. But across the board, the Republican answer to those questions is absolutely not, in every single instance: No debate, no votes. I disagree, and I will vote against cloture because we haven't done our job yet.

I will also vote against cloture because I cannot support the bill as it now stands, as my colleagues know. First, the legislation still contains some egregious provisions for corporate immunity. I already made my objection to immunity many times

over the last number of days. It puts the President's chosen few above the law, in my view; it endorses possibly illegal spying on Americans; and it strikes a harsh blow against the rule of law. I will continue to fight retroactive immunity with all the strength any one Senator can muster.

But I also strongly object to many of the intelligence-gathering portions of the bill, as well as supporting many of them that have been included. This bill reduces court oversight of spying nearly to the point of symbolism. It would allow the targeting of Americans on false pretenses. It opens up new twisted rationales for warrantless wiretapping, which is exactly what it ought to prevent. It could allow bulk collection of communications of millions of Americans as soon as an administration, whether this one or future one, has the wherewithal to build such an enormous dragnet, and it sets all of these deeply flawed provisions in stone for 6 years, depriving us of the flexibility we need to fight terrorism.

For all of those reasons, as well, I will vote against cloture later this afternoon.

Tonight, the President will come to Congress to speak to us and to the American people about the state of our Union. I hope he will use that opportunity to realize the Senate needs more time to do its constitutional duty to debate and consider this important legislation. However, I am concerned that he will instead continue to threaten to veto this legislation unless it includes retroactive immunity for the telecommunications industry.

The President has said this bill is essential to ''protecting the American people from enemies who attacked our country.'' That is a quotation. So why is he trying to stop it? Why is he promising to veto it? Why is he throwing it all away to protect a few corporations from lawsuits?

I fear that if we give this President what he wants, we risk weakening the rule of law and placing the rights of some of the President's favored corporations over the rights of ordinary American citizens.

I hope my colleagues will join with those of us who oppose cloture today on the substitute amendment to allow the Senate the time it needs to debate and improve the FISA Amendments Act. This issue is far too important for the security of our Nation and to our civil liberties to do otherwise.

As we all know, as I have stated over and over, this is historic tension that dates back to the founding of our Republic, of keeping us safe from those who would do us harm, and protecting the rights and liberties of American citizens. It has been a tension that has been debated and argued for more than 200 years, and the adoption of the FISA legislation three decades ago created the means by which that balance could be struck, allowing us to do what is necessary to protect us against those who would do us harm while simultaneously guaranteeing those rights and liberties we enjoy as Americans would be protected in these circumstances.

It is a critical point to maintain that balance. My fear is this legislation, particularly with retroactive immunity, upsets that balance significantly.

As I said before, and I will repeat in closing, had this been a few months, even a year in the wake of 9/11, had this administration had a record of by and large supporting the rule of law, I would not stand here and demand that we not include retroactive immunity under those circumstances. But there has been a pattern of behavior by this administration from the very outset. We now know these warrantless wiretaps began in January or February of 2001, not in the wake of 9/11. So even prior to the tragic events of September 11, 2001, this administration had begun a pattern of seeking warrantless wiretaps on average American citizens without the court orders provided for under the Foreign Intelligence Surveillance Act. Of course, it went on for 5 years and would still be ongoing were it not for a whistleblower in a report in a major American newspaper uncovering this program.

This went on for 5 long years amidst a pattern of behavior by this administration. I do not think I need to necessarily enumerate the examples of that pattern, beginning with Abu Ghraib, secret prisons and rendition, habeas corpus, the U.S. Attorney's Office, and the list goes on and on. I cannot undo those mistakes, but they are more than just mistakes. They are tragic examples of this administration's trampling all over the rule of law. What we can do this evening and what we can do in the coming days, collectively, Democrats and Republicans, is pass a FISA bill, much of which is included in the work of Senator ROCKEFELLER and Senator BOND. There will be some objections, obviously, to some amendments that will be offered, but to get our work done, pass this legislation, and move on to other business. The issues are far too important to leave them otherwise.

I thank, again, Senator ROCKEFELLER for giving me some time and urge our colleagues to vote against the cloture motion when that moment occurs.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from West Virginia.

Mr. ROCKEFELLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, we are now only a few days away from the expiration of the Protect America Act, days away from a situation in which the intelligence community will be unable to freely monitor new terrorist targets overseas. We are flirting with disaster, and the American people deserve to know how we got in this predicament. So let me review it.

Ten months ago, the Director of National Intelligence asked us to reform the Foreign Intelligence Surveillance Act. Our friends on the other side waited until July to take up a bill that agreed with his recommendations. It was not until August that Congress finally answered his pleas by authorizing for 6 months the overseas surveillance of foreign terrorist targets with the Protect America Act.

When our friends on the other side got back from the August break, they vowed to quickly address what they decried as the shortcomings of the Protect America Act.

The Senate Intelligence Committee, under the leadership of Senator ROCKEFELLER and Senator BOND, took up the task. Reforming FISA was complicated and demanding work, but the committee members came together, as they were intended to, along with the executive branch, which, of course, was necessary.

Everyone involved acted with determination, deliberation, and considerable skill. The process lasted 4 months. It involved numerous hearings, briefings, and negotiation sessions. The final product was a model of bipartisanship and accommodation across the Senate aisle and with the White House. The committee vote was not 15 to 0, but around here 13 to 2 is almost as impressive.

But what was perhaps even more impressive is the fact that such a broad coalition of players had come together to meet the minimum standards required of any legislation that replaces the Protect America Act, something that allows the intelligence community to operate without unreasonable and counterproductive restrictions, which protect phone carriers from frivolous lawsuits for helping the Government hunt for terrorists, and which is guaranteed to be signed into law. All of those things are contained in the Bond-Rockefeller, Rockefeller-Bond proposal.

Unfortunately, it was not until just before the Christmas break that our friends decided to even turn back to this vital issue, and even then we had to listen to a filibuster against FISA reform. Then when we began this session, our Democratic colleagues delayed consideration of FISA reform again by moving to the Indian health care bill instead.

So here we are, once again, pushed up against a looming deadline. During last week's consideration of the FISA reauthorization, the majority said it would not consider a 60-vote threshold for votes. It did not offer time agreements, nor did it make any effort to limit the number of amendments.

In short, the Senate faces a legislative logjam that ensures that we will

let the February 1 deadline come and go without making a reasonable effort to enact a law.

It should not have turned out this way. The administration negotiated in good faith with the Democratic majority on the committee that has the technical, operational expertise to handle the subject. And in the course of painstaking negotiations, the administration made tough concessions to our Democratic colleagues. It did this in order to arrive at a fair, bipartisan result that would allow it to continue to protect the homeland. Now that work is being brushed aside.

The menu of amendments to the Intelligence Committee bill is little more than an effort to renegotiate this hard-won deal, an effort to deconstruct the bipartisan Intelligence Committee bill, and reconstruct, amendment by amendment, the divisive Judiciary Committee bill that was tabled by a strong bipartisan majority. That bill will not—I repeat, will not—become law.

Reconstructing the Judiciary Committee bill is a pointless exercise. And with only 5 days until the Protect America Act expires, it is an exercise in which we do not have the luxury to engage.

We can get serious and pass the bipartisan Intelligence Committee product or we can waste time on voting for poison pill amendments that weaken the bill and that will prevent it from becoming law.

I urge our colleagues to make the right choice, to vote for cloture so that we can continue to protect the homeland and against cloture on the 30-day extension. We cannot delay this important legislation for another month. Of course, the President will not sign a 30-day extension.

That said, if we cannot complete this bill, Republicans will not allow this critical program to expire and will offer a short-term extension, if necessary.

To be perfectly clear, I urge that there be a ''yes'' vote on cloture on the bill, a ''no'' vote on cloture on the 30-day extension, an amendment to the bill which actually would not achieve a 30-day extension anyway but I think is a place that we do not want to go on record as having supported because the President will not sign that anyway. And in the next few days, we will consider what kind of short-term options might be appropriate to let us get back to this very important legislation so painstakingly put together by the expert leadership of Senator ROCKEFELLER and Senator BOND.

I yield the floor.

Mr. ROCKEFELLER. Mr. President, I suggest the absence of a quorum, and I ask that the time involved be divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I apologize to my friends for keeping everyone waiting. It hasn't been long—a matter of a minute or so.

In a few hours, President Bush will stand across the way in the House Chamber and deliver his final State of the Union Address. This will be his eighth State of the Union Address. From what I have heard earlier today in my meetings with the press who met with him, it is a fair bet in this speech that he will continue the drumbeat started by Vice President CHENEY last week by trying to scare the American people into believing that if he does not get his way on the FISA bill now before us, America's national security will be gravely jeopardized.

I have said on more than one occasion in recent days we face a faltering economy here at home and a failing foreign policy abroad. So I call upon all of us, Democrats and Republicans, to rise above partisanship. I have also said on more than one occasion that we extend our hand to the President and congressional Republicans and ask them to join with us in a genuine spirit of bipartisanship. In my nearly 26 years, I have never seen anything quite as cynical and counterproductive as the Republican approach to FISA.

I gave the example in my last statement that it was a Catch-22 the President has put us in. The American people deserve to know when President Bush talks about the foreign intelligence legislation tonight that he is doing little more than shooting for cheap political points, and we should reject any statements he makes about this. Members of Congress from both parties have legitimate policy disagreements on FISA—both parties. Some of us believe that history proves the need for more protections against Government abuse. Others support the law the way it stands. Now, that is appropriate; people have different views and opinions on an important part of our legislation and our laws in the country. But all of us, Members of Congress, Democrats and Republicans, want to wage an effective fight against terror. All of us, Democrats and Republicans, want to give our intelligence professionals the tools they need to win this fight against terror.

We will be taking two votes. The first is on whether to invoke cloture on the Bond-Rockefeller substitute to the FISA bill we have on the floor. The second is a substitute, on whether to extend the authorities of the Protect America Act for another 30 days while Congress works to pass a new FISA bill.

I will oppose cloture on the substitute and support cloture on the extension. The extension will give the Congress time to debate and pass a long-term bill that protects America without compromising the privacy of law-abiding Americans. Both the Intelligence Committee bill and the Judiciary Committee bill authorize the same surveillance tools our intelligence community needs. Democrats and Republicans stand together in all the terrorism fighting components of this bill. Some Democrats, including me, support the additional privacy protections in the Judiciary Committee bill. Others are satisfied with the protections in the Intelligence Committee bill.

Again, people are entitled to their opinions, but all of us believe the Senate should have an opportunity to vote on these important questions.

There was a nice piece written in one of the op-eds today talking about how the Republicans have talked a long time about all we want is an up-or-down vote. Well, if there were ever a time they should follow their own advice it is now—an up-or-down vote.

Many Democrats, including Chairman ROCKEFELLER, who has worked so hard, are going to oppose cloture on the substitute because they object—we object—to the heavy-handed tactics we saw with this legislation this past week. The Republican leader filed cloture on this bill after we had been on the floor for a few hours. Cloture was filed after Republicans blocked every amendment—every amendment—from being offered and blocked all amendments from getting votes. In simple terms, this means the Republicans were filibustering their own bill—their own legislation. Let me repeat that. The Republicans were filibustering their own legislation. In my time in the Senate, I can't remember this taking place.

Meanwhile, at the other end of Pennsylvania Avenue, President Bush has actually threatened to veto a temporary extension. Talk about trying to figure out what is in the mind of someone who is talking that way. Let us remember, a temporary extension would guarantee that all the terrorism fighting tools remain in effect. There is absolutely no policy or security problem with an extension. All it would do is give us more time to work this out on an uninterrupted basis. There is no reason to vote against an extension or for the President to veto one, except for political posturing.

None of us want the current law to expire. None of us want that to expire, except CHENEY and Bush. But if it does expire because of Republican tactics, surveillance will not end. Even if they stop us from extending the bill, it would not end. Surveillance would not end. All surveillance orders issued under the law we passed last August—the Protect America Act—are effective for a year, so they will continue until at least August of 2008—August of this year.

Even in a last resort—if the current law expires—our intelligence professionals can get surveillance orders under the FISA law as it has existed

for decades, before we passed the Protect America Act last August. FISA includes provisions for emergency warrantless surveillance, and it always has. Again, no one is arguing the law should be allowed to expire. Doing so would send the wrong message. But it still is going to allow the collection of this information. The safeguards in place ensure that our war on terror will not be adversely affected, and anyone who says otherwise—from the President on down—is not being truthful.

Why do Democrats seek an extension? We believe bipartisanship is appropriate when possible. The economic stimulus package shows us that when circumstances are difficult, we can work together. The Republican leadership's actions in this FISA debate have not given us reason for confidence that they are interested in working with us, but we owe it to the American people to give them every opportunity to do so.

We have requested a 30-day extension repeatedly—I have done it repeatedly—and each time the Republicans have said no. Compromise is a two-way street. Bipartisanship is a two-way street. As I said last week, we are willing to pass an extension of current law for 2 weeks, 30 days, 18 months, 14 months, 15 months or whatever our colleagues want, but we need to pass an extension now if we are to ensure the law doesn't expire. I have explained if it expires what happens.

The House is going out of session shortly. They have a retreat this week—after tomorrow. Already Democrats have introduced several amendments to strengthen the bill. Senator FEINGOLD sought a vote on his amendment to provide FISA Court documents to the Senate Intelligence Committee. Republicans blocked that. Senator WHITEHOUSE sought to offer an amendment to give the FISA Court authority to review compliance with minimization rules to protect the privacy of Americans whose communications are inadvertently intercepted. We were blocked from having that vote. Senator CARDIN sought to offer an amendment to sunset the legislation in 4 years rather than 6 years. Even that was blocked from having a vote. Senator KENNEDY offered an amendment—or I should say tried to offer one—providing for a report by the inspectors general of the relevant agencies to review the conduct of these programs in the past. No vote on that either. Senator FEINSTEIN sought to offer an amendment making crystal clear that FISA is the exclusive means by which the executive branch may conduct surveillance. Blocked by the Republicans.

Whether these amendments pass or not, we should be allowed to have votes on them. Senator FEINGOLD wasn't saying he wanted to talk for 2 hours. Senator FEINSTEIN wasn't saying she wanted to talk a long time. No one was—a short debate and have a vote on them. We were prevented from doing that.

So what does the Senate do? We take up bills all the time reported to us by committees. This is a little more complicated because we had two committees. It is not often we have concurrent jurisdiction, but there was here. But an eighth grade student could figure out what it is all about. It is not that difficult. Senators offer amendments to these bills and we let the Senate work its will. I don't understand how the Republicans can expect to block us from voting on any amendments and expect us to follow along. Senators are entitled to vote on their amendments.

Now, if someone is stalling—and we all went through that—there comes a time when you shut off the debate. But there is none of that here. With the Republicans blocking the amendments I have talked about, we haven't gotten to the crucial issue of immunity.

Mr. President, I will use my leader time now.

Let us not forget: The question of retroactive immunity wouldn't be before us if President Bush hadn't ignored Congress and established his own process outside the law. But far from taking responsibility for his actions, the President bullies and threatens the Congress he is supposed to be working with. He is similar to the kid in the school yard, the bully who says: OK, you are not doing what I want to do, so I am taking my ball home and none of us will be able to play.

When the President talks tonight about how important this program is and how it must continue, I say to him now that he must consider and reconsider his political posturing and ask his colleagues in the Senate to support an extension, especially when he is going to come and say how much he wants to work on a bipartisan basis.

We are a deliberative body. It was set up that way by the Founding Fathers. Let us deliberate. I urge my colleagues to oppose cloture on the substitute so the Senate can return to considering this bill. We must pass a bill that gives our intelligence authorities the tools they need while protecting the privacy of all Americans. I urge my colleagues to support the extension so we can ensure current authority doesn't expire while Congress works to pass a new and stronger FISA bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, and pursuant to rule XXII, the Chair lays before the Senate the following cloture motion which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute amendment to S. 2248, Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2007.

Mitch McConnell, Christopher S. Bond, Kay Bailey Hutchison, Wayne Allard, Jon Kyl, Robert F. Bennett, Sam Brownback, John Thune, Pat Roberts, John Barrasso, Chuck Grassley, Johnny Isakson, Lamar Alexander, Gordon H. Smith, Tom Coburn, Jim DeMint, Richard Burr.

Mr. REID. Mr. President, I ask unanimous consent that the second vote be of 10 minutes duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 3911, offered by the Senator from West Virginia, Mr. ROCKEFELLER, and the Senator from Missouri, Mr. BOND, to S. 2248, a bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote ''nay.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from North Carolina (Mrs. DOLE), the Senator from Nevada (Mr. ENSIGN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from North Carolina (Mrs. DOLE) would have voted ''yea.''

The PRESIDING OFFICER. Are there any other Sentors in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 45, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—48

Alexander	DeMint	McConnell
Allard	Domenici	Murkowski
Barrasso	Enzi	Nelson (NE)
Bennett	Graham	Pryor
Bond	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burr	Hatch	Smith
Chambliss	Hutchison	Snowe
Cochran	Inhofe	Stevens
Coleman	Isakson	Sununu
Collins	Kyl	Thune
Corker	Landrieu	Vitter
Cornyn	Lincoln	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	Wicker

NAYS—45

Akaka	Dodd	McCaskill
Baucus	Dorgan	Menendez
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Obama
Boxer	Inouye	Reed
Brown	Johnson	Reid
Byrd	Kennedy	Rockefeller
Cantwell	Kerry	Salazar
Cardin	Klobuchar	Sanders
Carper	Kohl	Schumer
Casey	Lautenberg	
Clinton	Leahy	
Conrad	Levin	

Specter	Tester	Whitehouse
Stabenow	Webb	Wyden

NOT VOTING—7

Coburn	Harkin	Nelson (FL)
Dole	Lieberman	
Ensign	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Republican leader.

Mr. MCCONNELL. Mr. President, I wanted to take a moment to explain the next vote. The President indicated over the weekend that he would veto a 30-day extension. We have been dealing with this issue for almost a year. We have in the Rockefeller-Bond proposal a bipartisan compromise that came out of Intelligence 13 to 2. There is no need for a 30-day extension. But even if there were, you wouldn't get a 30-day extension by adding it to this bill. It is extremely important to oppose the 30-day extension. We know it won't become law on this bill. It wouldn't become law if it were passed free-standing, because the President would veto it. We may be talking about a very short-term extension here in the next few days, but we are still on FISA after today. We will not get off FISA until we make some determination of how we are going to dispose of this important measure.

I urge all my colleagues to vote against cloture on the 30-day extension amendment.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, we all acknowledge the Intelligence Committee did a good job on this piece of legislation. But the Intelligence Committee knew, everyone knew, there was concurrent referral of this legislation. It was always anticipated and believed, rightfully so, that the Judiciary Committee would take up this matter. And they did. They made some suggestions in the way of changes. We are entitled to vote on those. That is all we are asking. That isn't too unreasonable. For the President to not agree to any extension is unreasonable. The House is going to pass a 30-day extension in the morning. They are going to pass that. We are going to have the opportunity to vote on a 30-day extension. This would send an appropriate message to everyone that a 30-day extension is fair and reasonable. As I said in my remarks before the last vote, people are crying wolf a little too often. This legislation we have before us, if it doesn't pass, the work done by the Intelligence Committee and the Judiciary Committee will go for naught. But still, under the legislation we passed previously, the legislation will still be in effect. FISA is not gone. We all want to work to improve this. That is what this is all about. But we need some votes to do that. That is what we are asking.

Everyone here should understand, if you are voting today not to extend this legislation for 30 days, you are going to have to vote on it in the near future because the House is sending us the exact same measure tomorrow.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Reid amendment No. 3918 to S. 2248.

John D. Rockefeller, IV, Dianne Feinstein, Jeff Bingaman, Debbie Stabenow, Sheldon Whitehouse, Daniel K. Inouye, Charles E. Schumer, Thomas R. Carper, Bill Nelson, E. Benjamin Nelson, Frank R. Lautenberg, Richard Durbin, Ken Salazar, Tom Harkin, Sherrod Brown, Harry Reid.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, is it the sense of the Senate that debate on amendment No. 3918, offered by the Senator from Nevada, Mr. REID, to S. 2248, a bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that act, and for other purposes, shall be brought to a close.

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from North Carolina (Mrs. DOLE), the Senator from Nevada (Mr. ENSIGN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from North Carolina (Mrs. DOLE) would have voted ''nay.''

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 45, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—48

Akaka	Conrad	Lautenberg
Baucus	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lincoln
Bingaman	Feingold	McCaskill
Boxer	Feinstein	Menendez
Brown	Inouye	Mikulski
Byrd	Johnson	Murray
Cantwell	Kennedy	Nelson (NE)
Cardin	Kerry	Obama
Carper	Klobuchar	Pryor
Casey	Kohl	Reed
Clinton	Landrieu	Reid
Rockefeller	Schumer	Webb
Salazar	Stabenow	Whitehouse
Sanders	Tester	Wyden

NAYS—45

Alexander	Crapo	McConnell
Allard	DeMint	Murkowski
Barrasso	Domenici	Roberts
Bennett	Enzi	Sessions
Bond	Graham	Shelby
Brownback	Grassley	Smith
Bunning	Gregg	Snowe
Burr	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Thune
Collins	Isakson	Vitter
Corker	Kyl	Voinovich
Cornyn	Lugar	Warner
Craig	Martinez	Wicker

NOT VOTING—7

Coburn	Harkin	Nelson (FL)
Dole	Lieberman	
Ensign	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. ROCKEFELLER. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

HONORING OUR ARMED FORCES

SERGEANT JON MICHAEL SCHOOLCRAFT, III

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave soldier. SGT Jon Michael Schoolcraft, III, 26 years old, died January 19 in Taji, Iraq. Sergeant Schoolcraft died of injuries he sustained when an improvised explosive device detonated near his vehicle. With an optimistic future before him, Jon risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Jon Schoolcraft, called Mike by his friends, graduated from Wapakoneta High School in Ohio in 2001. Growing up in Ohio with his mother, Cindy Schoolcraft-Hooker, Mike also spent time in Madison, IN, visiting his father, Mike Schoolcraft, Jr. Mike excelled at sports and particularly enjoyed skateboarding. His sense of duty to his country and a desire to see the world drove him to enroll in the Army's Delayed Entry Program while in high school.

After serving a first tour in Iraq, Mike reenlisted, telling a friend that he could not imagine doing anything other than being a soldier. In November of last year, Mike married his wife Amber and decided that his next tour in Iraq would be his last so they could begin a family. Mike was assigned to C Company, 1st Battalion, 27th Infantry Regiment, 25th Infantry Division in Schofield Barracks, HI. For his extraordinary service, Mike was posthumously awarded the Purple Heart.

Today, I join Mike's family and friends in mourning his death. While

we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Mike. Today and always, Mike will be remembered by family members, friends and fellow soldiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Mike's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Mike's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of SGT Jon Michael Schoolcraft, III, in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Mike's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Mike.

SMALL BUSINESS STIMULUS ACT

Mr. KERRY. Mr. President, over the past few months, our country has experienced instability and volatility in its credit markets. This looming credit crisis is affecting virtually every sector of the economy, including small business financing.

Since its inception in 1953, the Small Business Administration's 7(a) loan guaranty program has become the largest single source of long-term capital for small businesses. However, in the wake of the credit crunch and a slowing U.S. economy, we are now noticing that this essential financing resource is not serving nearly as many small businesses as it should. For example, during the first quarter of the 2008 fiscal year, 7(a) lending was down by 12 percent compared with the same period last year. In addition, at his State of the Agency Address this past Tuesday, SBA Administrator Steven Preston acknowledged that SBA lending was down in its largest program.

The Small Business Stimulus Act of 2008 will help reverse this downward trend in small business lending. The bill will temporarily reduce the fees collected from borrowers and lenders. This will immediately reduce the cost of capital for small businesses. With lower monthly loan payments, more money will be placed into the hands of small business owners money that will be quickly injected into the economy through purchases of inventory, real estate, and equipment. The fee reduction for lenders, coupled with the government guarantee, will give them an incentive to make 7(a) loans, as banks are scrambling for ways to salvage declining revenues and take on less risky loans. A similar stimulus was adopted after 9/11, and lending increased to businesses nationwide, pumping almost $3 billion into local economies and creating or retaining more than 90,000 jobs.

The bill also provides additional funding for the SBA's microloan program. As its name implies, microloans are small-scale business loans, which provide an essential financing source to underserved members of the business population, including women and minorities. This bill provides $12 million to expand the SBA's microloan program, including $2 million that will help leverage nearly $20 million in microloans.

The Small Business Stimulus Act of 2008 also includes two business tax incentives that will help small businesses that are feeling the impact of the economic downturn. The first provision would increase the amount that businesses can expense from $125,000 to $200,000 for 2008. This will help businesses immediately write off business purchases. The second provision increases the net operating carry back period for losses arising in taxable years ending in 2007 and 2008 from 2 years to 5 years. This provision will help business with cash flow. Expanding the carry back allows business owners to balance out net losses over years when the business has had a net operating gain.

I am confident that each of these targeted measures will provide timely, effective incentives to spur spending and encourage new investment and job growth in the hundreds of thousands of small businesses that drive this Nation's economy.

REMEMBERING THE UKRAINIAN FAMINE

Mr. VOINOVICH. Mr. President, I wish to remember the trials faced by the Ukrainian people and to pay tribute to their fortitude and love of freedom. At times in its history, Ukraine has been exploited and suffered greatly under repressive occupations. The Stalinist regime of the former Soviet Union sought to maintain control of the people and resources of the Ukraine through vicious oppression. The Ukrainian people have weathered many trials, but they have always fought for their freedom. It is my belief that as we embrace Ukraine's future, we must always remember the hardships of its past.

The Ukrainian peasantry rebelled against the collectivization policies imposed on them by the Stalinist regime starting in 1925. It is documented that very few farmers voluntarily joined collectives until Soviet secret police and Bolshevik brigades were sent to crush the resistance. As agricultural production fell in 1932 due to drought and these Stalinist policies, the regime attempted to maintain its export level. To do this the regime brutally confiscated grain and foodstuffs from hunger-stricken villages. Trade and supplies of food and goods were banned from those villages which were considered to be ''underperforming,'' while families who resisted were banished to central Asia. The totalitarian regime meted out harsh sentences, even the death penalty, against those who stole even small amounts of grain. We can never forget that over 2,000 innocent people, including children as young as 12 years old, were executed under this law.

In 1932, Stalin imposed barricades throughout the USSR to prevent peasants from fleeing those regions stricken by famine. It was a state-organized program of mass starvation against the nation of Ukraine as a whole and the revived Ukrainian nationalism. It had been inflicted on them deliberately to punish Ukraine and destroy the basis of its nationhood. The famine-genocide of the Holodomor resulted in the tragic and unforgettable loss of millions of Ukrainian lives. Nevertheless, the Stalinist regime denied reports of mass deaths and forbade travel to the area to deter foreign journalists from reporting on these terrible crimes. In fact, these horrible crimes remained largely unknown to the broader world for decades as a result of the denials and coverups of the Soviet authorities and their refusal of offers of international aid.

Through its determination to remember the victims of the famine and Soviet oppression, the Ukrainian American community has helped to bring these events to light. Their efforts have helped to give a voice to the millions of people who suffered, starved, and died as a result of a flawed policy and authoritarian regime.

On the 75th anniversary of the Ukrainian famine-genocide, we must continue the important work of the Ukrainian American community by remembering the cruel injustices suffered by the Ukrainian people during that part of history. By so doing, we are not only honoring the millions of victims of this oppression, but we are helping to prevent a tragedy like this from happening again in the future.

CURRENT ELECTORAL CRISIS IN KENYA

Mr. FEINGOLD. Mr. President, just over 1 month ago, in the days before the December 27 president election, I

noted that it had become the closest political contest in that country's history and that the two leading candidates were running robust, active campaigns. Although I also acknowledged the persistence of a deeply entrenched culture of corruption, I was encouraged by the growing engagement of Kenyan citizens and civil society organizations during the relatively peaceful, well-run, and competitive campaign season. I joined many others in hoping that the presidential and parliamentary elections held on that day would confirm Kenya's place among the world's most promising emerging economies and young democracies. Instead, that hope turned to dismay as we watched a blatant disregard for democratic principles and processes by the ruling party and an extraordinary disrespect for rule of law and human rights by both leading candidates' parties. The serious allegations of vote rigging, the rushed declaration of a presidential winner, and the destructive violence that have ensued are not only hurting the Kenyan people—they are jeopardizing Kenya's previous democratic progress.

With Somalia, Ethiopia, Sudan, and Uganda as neighbors in the volatile Horn of Africa, Kenya has long been regarded as a stable country making slow but persistent progress towards democracy. Kenya's press and courts seemed to be asserting their independence from the president-dominated government, and the mere fact that all pre-election opinion polls put the incumbent president neck-and-neck with his challenger from the main opposition party seemed to be an encouraging sign of a vibrant democracy. But on December 27 and in the days that followed, this progress came to a grinding halt. The Kenyan election suffered a fate all too common in Africa, with the votes tallied behind closed doors and the results finally announced by Kenya's Electoral Commission suggesting significant rigging.

The resulting frustration and deadlock have sparked violence, looting, destruction of property, and disruption of normal activity, creating an economic and humanitarian emergency on top of the current political crisis. Hundreds have been killed—some of them because of disproportionate use of force by Kenyan police as they seek to quell protests—and tens of thousands have fled their homes. Trust in the government, law enforcement, and even in one's neighbor has been seriously undermined.

The rival political leaders—incumbent President Mwai Kibaki and leader of the Orange Democratic Movement opposition party, Raila Odinga—can work to end this violence and destruction by refraining from using, inciting or condoning violent tactics. In recent days, Mr. Odinga and his supporters have demonstrated noteworthy restraint and it is essential that both parties respect the importance of a peaceful resolution as they begin to participate in an internationally brokered dialogue, led by former U.N. Secretary General Kofi Annan.

It is early days yet, and it remains unclear how committed these leading candidates are to seeing the negotiation through to the finish line. Although he has agreed to participate in an internationally brokered meeting with Mr. Odinga, Mr. Kibaki has been less than cooperative by rushing to appoint his own cronies to top cabinet positions and declaring he will follow the recommendations only of the Kenyan courts, which are also packed with his supporters. A political settlement is a key element in working through this electoral crisis but it must be part of a greater initiative that includes institutional reform. The road ahead is long, and I remain concerned that while both leading candidates have come to the table for negotiations, they could still decide to abandon the effort.

The past few weeks have shown how superficial Kenya's democratic gains may really have been. Now the international community—and the United States in particular—must live up to its rhetoric in favor of free and fair elections and institutional building. Many of the other countries that have suffered botched elections had a long history of such fraud but if this relatively stable and prosperous country is allowed to abandon its democratic experiment, the appeal of democracy will inevitably dim around the world. The citizens of Kenya as well as those from around the world had higher expectations for Kenya.

Resolving Kenya's current political, humanitarian, and economic crisis will require a coordinated international effort to engage all players in identifying and addressing the deeper problems that allowed the election fraud to occur and to ignite such a wave of outrage. Although a power-sharing agreement will likely be part of the solution, serious underlying problems need to be addressed. The challenges facing Kenya include an over-concentration of power in the office of the president, insufficient independence of the judiciary and electoral institutions, the need for professionalization of police and armed forces, and a persistent lack of transparency and inclusiveness throughout the political system. Only by addressing these root causes of the recent conflict will Kenya be able to truly restore stability and emerge from this crisis a stronger and more prosperous nation. Such a task will not be quick, easy, or cheap, but the alternative—not seizing this chance to bring about essential political reform—would be enduring, complex, and costly.

Last week, along with my ranking member on the Senate Subcommittee on African Affairs, Senator SUNUNU, and Senators CARDIN and KERRY, I introduced a resolution to encourage the United States and the wider international community to resist the temptation for a quick fix in Kenya and to instead pursue a more intensive, encompassing plan for political transition and transformation. I hope the Senate will pass this resolution shortly. The administration has played an active role—sending Assistant Secretary Frazer to Nairobi shortly after the elections to meet with both leading candidates—and I know Ambassador Ranneberger has been actively engaged in-country. But we need to see greater collaboration from all donors—with one consistent message that helps move Kenya to the next stage. I hope that Members of Congress from both parties will come together to support this initiative and the diplomatic and humanitarian efforts in Kenya that must follow in the coming weeks and months.

The U.S.-Kenya partnership is a longstanding and important one, but I cannot condone a continued relationship with a government that has apparently stolen an election and uses tactics of fear and intimidation to address dissent. This is not the Kenya I have come to know, and I am sure, not the Kenya its citizens want to know. We must close this devastating chapter by addressing the reasons for the electoral crisis and ensuing violence. Without such vital work, our historic partnership will deteriorate. There is a window of opportunity to ensure this does not happen, and I encourage all key actors to seize upon this opening. Above all, I want to see violence end and hope restored in Kenya.

VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I was necessarily absent for today's cloture votes on the Rockefeller-Bond Substitute amendment No. 3911 and the Reid amendment No. 3918 to S. 2246, the FISA legislation. Had I been present, I would have voted ''no'' on No. 3911 and ''aye'' on No. 3918.

I believe that now is the time for the full Senate to consider and debate the difficult questions raised in this legislation. The Senate should consider and vote on important amendments relating to the protection of Americans' civil liberties and the question of immunity for telecommunications providers.

REPORT ON THE STATE OF THE UNION DELIVERED TO A JOINT SESSION OF CONGRESS ON JANUARY 28, 2008—PM 35

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was ordered to lie on the table:

To the Congress of the United States:

Madam Speaker, Vice President CHENEY, Members of Congress, distinguished guests, and fellow citizens:

Seven years have passed since I first stood before you at this rostrum. In that time, our country has been tested

in ways none of us could have imagined. We have faced hard decisions about peace and war, rising competition in the world economy, and the health and welfare of our citizens. These issues call for vigorous debate, and I think it's fair to say we've answered that call. Yet history will record that amid our differences, we acted with purpose. And together, we showed the world the power and resilience of American self-government.

All of us were sent to Washington to carry out the people's business. That is the purpose of this body. It is the meaning of our oath. And it remains our charge to keep.

The actions of the 110th Congress will affect the security and prosperity of our Nation long after this session has ended. In this election year, let us show our fellow Americans that we recognize our responsibilities and are determined to meet them. And let us show them that Republicans and Democrats can compete for votes and cooperate for results at the same time.

From expanding opportunity to protecting our country, we have made good progress. Yet we have unfinished business before us, and the American people expect us to get it done.

In the work ahead, we must be guided by the philosophy that made our Nation great. As Americans, we believe in the power of individuals to determine their destiny and shape the course of history. We believe that the most reliable guide for our country is the collective wisdom of ordinary citizens. So in all we do, we must trust in the ability of free people to make wise decisions, and empower them to improve their lives and their futures.

To build a prosperous future, we must trust people with their own money and empower them to grow our economy. As we meet tonight, our economy is undergoing a period of uncertainty. America has added jobs for a record 52 straight months, but jobs are now growing at a slower pace. Wages are up, but so are prices for food and gas. Exports are rising, but the housing market has declined. And at kitchen tables across our country, there is concern about our economic future.

In the long run, Americans can be confident about our economic growth. But in the short run, we can all see that growth is slowing. So last week, my Administration reached agreement with Speaker PELOSI and Republican Leader BOEHNER on a robust growth package that includes tax relief for individuals and families and incentives for business investment. The temptation will be to load up the bill. That would delay it or derail it, and neither option is acceptable. This is a good agreement that will keep our economy growing and our people working. And this Congress must pass it as soon as possible.

We have other work to do on taxes. Unless the Congress acts, most of the tax relief we have delivered over the past 7 years will be taken away. Some in Washington argue that letting tax relief expire is not a tax increase. Try explaining that to 116 million American taxpayers who would see their taxes rise by an average of $1,800. Others have said they would personally be happy to pay higher taxes. I welcome their enthusiasm, and I am pleased to report that the IRS accepts both checks and money orders.

Most Americans think their taxes are high enough. With all the other pressures on their finances, American families should not have to worry about the Federal Government taking a bigger bite out of their paychecks. There is only one way to eliminate this uncertainty: make the tax relief permanent. And Members of Congress should know: If any bill raising taxes reaches my desk, I will veto it.

Just as we trust Americans with their own money, we need to earn their trust by spending their tax dollars wisely. Next week, I will send you a budget that terminates or substantially reduces 151 wasteful or bloated programs totaling more than $18 billion. And this budget will keep America on track for a surplus in 2012. American families have to balance their budgets, and so should their Government.

The people's trust in their Government is undermined by congressional earmarks—special interest projects that are often snuck in at the last minute, without discussion or debate. Last year, I asked you to voluntarily cut the number and cost of earmarks in half. I also asked you to stop slipping earmarks into committee reports that never even come to a vote. Unfortunately, neither goal was met. So this time, if you send me an appropriations bill that does not cut the number and cost of earmarks in half, I will send it back to you with my veto. And tomorrow, I will issue an Executive Order that directs Federal agencies to ignore any future earmark that is not voted on by the Congress. If these items are truly worth funding, the Congress should debate them in the open and hold a public vote.

Our shared responsibilities extend beyond matters of taxes and spending.

On housing, we must trust Americans with the responsibility of homeownership and empower them to weather turbulent times in the housing market. My administration brought together the HOPE NOW alliance, which is helping many struggling homeowners avoid foreclosure. The Congress can help even more. Tonight I ask you to pass legislation to reform Fannie Mae and Freddie Mac, modernize the Federal Housing Administration, and allow State housing agencies to issue tax-free bonds to help homeowners refinance their mortgages. These are difficult times for many American families, and by taking these steps, we can help more of them keep their homes.

To build a future of quality health care, we must trust patients and doctors to make medical decisions and empower them with better information and better options. We share a common goal: making health care more affordable and accessible for all Americans. The best way to achieve that goal is by expanding consumer choice, not government control. So I have proposed ending the bias in the tax code against those who do not get their health insurance through their employer. This one reform would put private coverage within reach for millions, and I call on the Congress to pass it this year. The Congress must also expand health savings accounts, create Association Health Plans for small businesses, promote health information technology, and confront the epidemic of junk medical lawsuits. With all these steps, we will help ensure that decisions about your medical care are made in the privacy of your doctor's office—not in the halls of Congress.

On education, we must trust students to learn if given the chance and empower parents to demand results from our schools. In neighborhoods across our country, there are boys and girls with dreams—and a decent education is their only hope of achieving them. Six years ago, we came together to pass the No Child Left Behind Act, and today no one can deny its results. Last year, fourth and eighth graders achieved the highest math scores on record. Reading scores are on the rise. And African-American and Hispanic students posted alltime highs. Now we must work together to increase accountability, add flexibility for States and districts, reduce the number of high school dropouts, and provide extra help for struggling schools. Members of Congress: The No Child Left Behind Act is a bipartisan achievement. It is succeeding. And we owe it to America's children, their parents, and their teachers to strengthen this good law.

We must also do more to help children when their schools do not measure up. Thanks to the D.C. Opportunity Scholarships you approved, more than 2,600 of the poorest children in our Nation's capital have found new hope at a faith-based or other non-public school. Sadly, these schools are disappearing at an alarming rate in many of America's inner cities. So I will convene a White House summit aimed at strengthening these lifelines of learning. And to open the doors of these schools to more children, I ask you to support a new $300 million program called Pell Grants for Kids. We have seen how Pell Grants help low-income college students realize their full potential. Together, we have expanded the size and reach of these grants. Now let's apply that same spirit to help liberate poor children trapped in failing public schools.

On trade, we must trust American workers to compete with anyone in the world and empower them by opening up new markets overseas. Today, our economic growth increasingly depends on our ability to sell American goods, crops, and services all over the world.

So we are working to break down barriers to trade and investment wherever we can. We are working for a successful Doha round of trade talks, and we must complete a good agreement this year. At the same time, we are pursuing opportunities to open up new markets by passing free trade agreements.

I thank the Congress for approving a good agreement with Peru. Now I ask you to approve agreements with Colombia, Panama, and South Korea. Many products from these nations now enter America duty-free, yet many of our products face steep tariffs in their markets. These agreements will level the playing field. They will give us better access to nearly 100 million customers. And they will support good jobs for the finest workers in the world: those whose products say ''Made in the USA.''

These agreements also promote America's strategic interests. The first agreement that will come before you is with Colombia, a friend of America that is confronting violence and terror and fighting drug traffickers. If we fail to pass this agreement, we will embolden the purveyors of false populism in our hemisphere. So we must come together, pass this agreement, and show our neighbors in the region that democracy leads to a better life.

Trade brings better jobs, better choices, and better prices. Yet for some Americans, trade can mean losing a job, and the Federal Government has a responsibility to help. I ask the Congress to reauthorize and reform trade adjustment assistance, so we can help these displaced workers learn new skills and find new jobs.

To build a future of energy security, we must trust in the creative genius of American researchers and entrepreneurs and empower them to pioneer a new generation of clean energy technology. Our security, our prosperity, and our environment all require reducing our dependence on oil. Last year, I asked you to pass legislation to reduce oil consumption over the next decade, and you responded. Together we should take the next steps: Let us fund new technologies that can generate coal power while capturing carbon emissions. Let us increase the use of renewable power and emissions-free nuclear power. Let us continue investing in advanced battery technology and renewable fuels to power the cars and trucks of the future. Let us create a new international clean technology fund, which will help developing nations like India and China make greater use of clean energy sources. And let us complete an international agreement that has the potential to slow, stop, and eventually reverse the growth of greenhouse gases. This agreement will be effective only if it includes commitments by every major economy and gives none a free ride. The United States is committed to strengthening our energy security and confronting global climate change. And the best way to meet these goals is for America to continue leading the way toward the development of cleaner and more efficient technology.

To keep America competitive into the future, we must trust in the skill of our scientists and engineers and empower them to pursue the breakthroughs of tomorrow. Last year, the Congress passed legislation supporting the American Competitiveness Initiative, but never followed through with the funding. This funding is essential to keeping our scientific edge. So I ask the Congress to double Federal support for critical basic research in the physical sciences and ensure America remains the most dynamic nation on earth.

On matters of science and life, we must trust in the innovative spirit of medical researchers and empower them to discover new treatments while respecting moral boundaries. In November, we witnessed a landmark achievement when scientists discovered a way to reprogram adult skin cells to act like embryonic stem cells. This breakthrough has the potential to move us beyond the divisive debates of the past by extending the frontiers of medicine without the destruction of human life. So we are expanding funding for this type of ethical medical research. And as we explore promising avenues of research, we must also ensure that all life is treated with the dignity it deserves. So I call on the Congress to pass legislation that bans unethical practices such as the buying, selling, patenting, or cloning of human life.

On matters of justice, we must trust in the wisdom of our Founders and empower judges who understand that the Constitution means what it says. I have submitted judicial nominees who will rule by the letter of the law, not the whim of the gavel. Many of these nominees are being unfairly delayed. They are worthy of confirmation, and the Senate should give each of them a prompt up-or-down vote.

In communities across our land, we must trust in the good heart of the American people and empower them to serve their neighbors in need. Over the past 7 years, more of our fellow citizens have discovered that the pursuit of happiness leads to the path of service. Americans have volunteered in record numbers. Charitable donations are higher than ever. Faith-based groups are bringing hope to pockets of despair, with newfound support from the Federal Government. And to help guarantee equal treatment for faith-based organizations when they compete for Federal funds, I ask you to permanently extend Charitable Choice.

Tonight the armies of compassion continue the march to a new day in the Gulf Coast. America honors the strength and resilience of the people of this region. We reaffirm our pledge to help them build stronger and better than before. And tonight I am pleased to announce that in April we will host this year's North American Summit of Canada, Mexico, and the United States in the great city of New Orleans.

There are two other pressing challenges that I have raised repeatedly before this body, and that this body has failed to address: entitlement spending and immigration.

Every Member in this Chamber knows that spending on entitlement programs like Social Security, Medicare, and Medicaid is growing faster than we can afford. And we all know the painful choices ahead if America stays on this path: massive tax increases, sudden and drastic cuts in benefits, or crippling deficits. I have laid out proposals to reform these programs. Now I ask Members of Congress to offer your proposals and come up with a bipartisan solution to save these vital programs for our children and grandchildren.

The other pressing challenge is immigration. America needs to secure our borders—and with your help, my administration is taking steps to do so. We are increasing worksite enforcement, we are deploying fences and advanced technologies to stop illegal crossings, we have effectively ended the policy of ''catch and release'' at the border, and by the end of this year, we will have doubled the number of border patrol agents. Yet we also need to acknowledge that we will never fully secure our border until we create a lawful way for foreign workers to come here and support our economy. This will take pressure off the border and allow law enforcement to concentrate on those who mean us harm. We must also find a sensible and humane way to deal with people here illegally. Illegal immigration is complicated, but it can be resolved. And it must be resolved in a way that upholds both our laws and our highest ideals.

This is the business of our Nation here at home. Yet building a prosperous future for our citizens also depends on confronting enemies abroad and advancing liberty in troubled regions of the world.

Our foreign policy is based on a clear premise: We trust that people, when given the chance, will choose a future of freedom and peace. In the last 7 years, we have witnessed stirring moments in the history of liberty. We have seen citizens in Georgia and Ukraine stand up for their right to free and fair elections. We have seen people in Lebanon take to the streets to demand their independence. We have seen Afghans emerge from the tyranny of the Taliban to choose a new president and a new parliament. We have seen jubilant Iraqis holding up ink-stained fingers and celebrating their freedom. And these images of liberty have inspired us.

In the past 7 years, we have also seen images that have sobered us. We have watched throngs of mourners in Lebanon and Pakistan carrying the caskets of beloved leaders taken by the assassin's hand. We have seen wedding guests in blood-soaked finery staggering from a hotel in Jordan, Afghans and Iraqis blown up in mosques and

markets, and trains in London and Madrid ripped apart by bombs. And on a clear September day, we saw thousands of our fellow citizens taken from us in an instant. These horrific images serve as a grim reminder: The advance of liberty is opposed by terrorists and extremists—evil men who despise freedom, despise America, and aim to subject millions to their violent rule.

Since September 11, we have taken the fight to these terrorists and extremists. We will stay on the offense, we will keep up the pressure, and we will deliver justice to the enemies of America.

We are engaged in the defining ideological struggle of the 21st century. The terrorists oppose every principle of humanity and decency that we hold dear. Yet in this war on terror, there is one thing we and our enemies agree on: In the long run, men and women who are free to determine their own destinies will reject terror and refuse to live in tyranny. That is why the terrorists are fighting to deny this choice to people in Lebanon, Iraq, Afghanistan, Pakistan, and the Palestinian Territories. And that is why, for the security of America and the peace of the world, we are spreading the hope of freedom.

In Afghanistan, America, our 25 NATO allies, and 15 partner nations are helping the Afghan people defend their freedom and rebuild their country. Thanks to the courage of these military and civilian personnel, a nation that was once a safe haven for al Qaida is now a young democracy where boys and girls are going to school, new roads and hospitals are being built, and people are looking to the future with new hope. These successes must continue, so we are adding 3,200 Marines to our forces in Afghanistan, where they will fight the terrorists and train the Afghan Army and police. Defeating the Taliban and al Qaida is critical to our security, and I thank the Congress for supporting America's vital mission in Afghanistan.

In Iraq, the terrorists and extremists are fighting to deny a proud people their liberty and to establish safe havens for attacks across the world. One year ago, our enemies were succeeding in their efforts to plunge Iraq into chaos. So we reviewed our strategy and changed course. We launched a surge of American forces into Iraq. And we gave our troops a new mission: Work with Iraqi forces to protect the Iraqi people, pursue the enemy in its strongholds, and deny the terrorists sanctuary anywhere in the country.

The Iraqi people quickly realized that something dramatic had happened. Those who had worried that America was preparing to abandon them instead saw tens of thousands of American forces flowing into their country. They saw our forces moving into neighborhoods, clearing out the terrorists, and staying behind to ensure the enemy did not return. And they saw our troops, along with Provincial Reconstruction Teams that include Foreign Service Officers and other skilled public servants, coming in to ensure that improved security was followed by improvements in daily life. Our military and civilians in Iraq are performing with courage and distinction, and they have the gratitude of our whole Nation.

The Iraqis launched a surge of their own. In the fall of 2006, Sunni tribal leaders grew tired of al Qaida's brutality and started a popular uprising called ''The Anbar Awakening.'' Over the past year, similar movements have spread across the country. And today, this grassroots surge includes more than 80,000 Iraqi citizens who are fighting the terrorists. The government in Baghdad has stepped forward as well—adding more than 100,000 new Iraqi soldiers and police during the past year.

While the enemy is still dangerous and more work remains, the American and Iraqi surges have achieved results few of us could have imagined just 1 year ago:

When we met last year, many said containing the violence was impossible. A year later, high profile terrorist attacks are down, civilian deaths are down, and sectarian killings are down.

When we met last year, militia extremists—some armed and trained by Iran—were wreaking havoc in large areas of Iraq. A year later, Coalition and Iraqi forces have killed or captured hundreds of militia fighters. And Iraqis of all backgrounds increasingly realize that defeating these militia fighters is critical to the future of their country.

When we met last year, al Qaida had sanctuaries in many areas of Iraq, and their leaders had just offered American forces safe passage out of the country. Today, it is al Qaida that is searching for safe passage. They have been driven from many of the strongholds they once held, and over the past year, we have captured or killed thousands of extremists in Iraq, including hundreds of key al Qaida leaders and operatives. Last month, Osama bin Laden released a tape in which he railed against Iraqi tribal leaders who have turned on al Qaida and admitted that Coalition forces are growing stronger in Iraq. Ladies and gentlemen, some may deny the surge is working, but among the terrorists there is no doubt. Al Qaida is on the run in Iraq, and this enemy will be defeated.

When we met last year, our troop levels in Iraq were on the rise. Today, because of the progress just described, we are implementing a policy of ''return on success,'' and the surge forces we sent to Iraq are beginning to come home.

This progress is a credit to the valor of our troops and the brilliance of their commanders. This evening, I want to speak directly to our men and women on the front lines. Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen: In the past year, you have done everything we have asked of you, and more. Our Nation is grateful for your courage. We are proud of your accomplishments. And tonight in this hallowed chamber, with the American people as our witness, we make you a solemn pledge: In the fight ahead, you will have all you need to protect our Nation. And I ask the Congress to meet its responsibilities to these brave men and women by fully funding our troops.

Our enemies in Iraq have been hit hard. They are not yet defeated, and we can still expect tough fighting ahead. Our objective in the coming year is to sustain and build on the gains we made in 2007, while transitioning to the next phase of our strategy. American troops are shifting from leading operations, to partnering with Iraqi forces, and, eventually, to a protective overwatch mission. As part of this transition, one Army brigade combat team and one Marine Expeditionary Unit have already come home and will not be replaced. In the coming months, four additional brigades and two Marine battalions will follow suit. Taken together, this means more than 20,000 of our troops are coming home.

Any further drawdown of U.S. troops will be based on conditions in Iraq and the recommendations of our commanders. General Petraeus has warned that too fast a drawdown could result in the ''disintegration of the Iraqi Security Forces, al Qaida-Iraq regaining lost ground, [and] a marked increase in violence.'' Members of Congress: Having come so far and achieved so much, we must not allow this to happen.

In the coming year, we will work with Iraqi leaders as they build on the progress they are making toward political reconciliation. At the local level, Sunnis, Shia, and Kurds are beginning to come together to reclaim their communities and rebuild their lives. Progress in the provinces must be matched by progress in Baghdad. And we are seeing some encouraging signs. The national government is sharing oil revenues with the provinces. The parliament recently passed both a pension law and de-Ba'athification reform. Now they are debating a provincial powers law. The Iraqis still have a distance to travel. But after decades of dictatorship and the pain of sectarian violence, reconciliation is taking place—and the Iraqi people are taking control of their future.

The mission in Iraq has been difficult and trying for our Nation. But it is in the vital interest of the United States that we succeed. A free Iraq will deny al Qaida a safe haven. A free Iraq will show millions across the Middle East that a future of liberty is possible. And a free Iraq will be a friend of America, a partner in fighting terror, and a source of stability in a dangerous part of the world.

By contrast, a failed Iraq would embolden extremists, strengthen Iran, and give terrorists a base from which to launch new attacks on our friends, our allies, and our homeland. The enemy has made its intentions clear. At a

time when the momentum seemed to favor them, al Qaida's top commander in Iraq declared that they will not rest until they have attacked us here in Washington. My fellow Americans: We will not rest either. We will not rest until this enemy has been defeated. We must do the difficult work today, so that years from now people will look back and say that this generation rose to the moment, prevailed in a tough fight, and left behind a more hopeful region and a safer America.

We are also standing against the forces of extremism in the Holy Land, where we have new cause for hope. Palestinians have elected a president who recognizes that confronting terror is essential to achieving a state where his people can live in dignity and at peace with Israel. Israelis have leaders who recognize that a peaceful, democratic Palestinian state will be a source of lasting security. This month in Ramallah and Jerusalem, I assured leaders from both sides that America will do, and I will do, everything we can to help them achieve a peace agreement that defines a Palestinian state by the end of this year. The time has come for a Holy Land where a democratic Israel and a democratic Palestine live side-by-side in peace.

We are also standing against the forces of extremism embodied by the regime in Tehran. Iran's rulers oppress a good and talented people. And wherever freedom advances in the Middle East, it seems the Iranian regime is there to oppose it. Iran is funding and training militia groups in Iraq, supporting Hezbollah terrorists in Lebanon, and backing Hamas' efforts to undermine peace in the Holy Land. Tehran is also developing ballistic missiles of increasing range and continues to develop its capability to enrich uranium, which could be used to create a nuclear weapon. Our message to the people of Iran is clear: We have no quarrel with you, we respect your traditions and your history, and we look forward to the day when you have your freedom. Our message to the leaders of Iran is also clear: Verifiably suspend your nuclear enrichment, so negotiations can begin. And to rejoin the community of nations, come clean about your nuclear intentions and past actions, stop your oppression at home, and cease your support for terror abroad. But above all, know this: America will confront those who threaten our troops, we will stand by our allies, and we will defend our vital interests in the Persian Gulf.

On the homefront, we will continue to take every lawful and effective measure to protect our country. This is our most solemn duty. We are grateful that there has not been another attack on our soil since September 11. This is not for a lack of desire or effort on the part of the enemy. In the past 6 years, we have stopped numerous attacks, including a plot to fly a plane into the tallest building in Los Angeles and another to blow up passenger jets bound for America over the Atlantic. Dedicated men and women in our Government toil day and night to stop the terrorists from carrying out their plans. These good citizens are saving American lives, and everyone in this chamber owes them our thanks. And we owe them something more: We owe them the tools they need to keep our people safe.

One of the most important tools we can give them is the ability to monitor terrorist communications. To protect America, we need to know who the terrorists are talking to, what they are saying, and what they are planning. Last year, the Congress passed legislation to help us do that. Unfortunately, the Congress set the legislation to expire on February 1. This means that if you do not act by Friday, our ability to track terrorist threats would be weakened and our citizens will be in greater danger. The Congress must ensure the flow of vital intelligence is not disrupted. The Congress must pass liability protection for companies believed to have assisted in the efforts to defend America. We have had ample time for debate. The time to act is now.

Protecting our Nation from the dangers of a new century requires more than good intelligence and a strong military. It also requires changing the conditions that breed resentment and allow extremists to prey on despair. So America is using its influence to build a freer, more hopeful, and more compassionate world. This is a reflection of our national interest and the calling of our conscience.

America is opposing genocide in Sudan and supporting freedom in countries from Cuba and Zimbabwe to Belarus and Burma.

America is leading the fight against global poverty, with strong education initiatives and humanitarian assistance. We have also changed the way we deliver aid by launching the Millennium Challenge Account. This program strengthens democracy, transparency, and the rule of law in developing nations, and I ask you to fully fund this important initiative.

America is leading the fight against global hunger. Today, more than half the world's food aid comes from the United States. And tonight, I ask the Congress to support an innovative proposal to provide food assistance by purchasing crops directly from farmers in the developing world, so we can build up local agriculture and help break the cycle of famine.

America is leading the fight against disease. With your help, we are working to cut by half the number of malaria-related deaths in 15 African nations. And our Emergency Plan for AIDS Relief is treating 1.4 million people. We can bring healing and hope to many more. So I ask you to maintain the principles that have changed behavior and made this program a success. And I call on you to double our initial commitment to fighting HIV/AIDS by approving an additional $30 billion over the next 5 years.

America is a force for hope in the world because we are a compassionate people, and some of the most compassionate Americans are those who have stepped forward to protect us. We must keep faith with all who have risked life and limb so that we might live in freedom and peace. Over the past 7 years, we have increased funding for veterans by more than 95 percent. As we increase funding, we must also reform our veterans system to meet the needs of a new war and a new generation. I call on the Congress to enact the reforms recommended by Senator Bob Dole and Secretary Donna Shalala, so we can improve the system of care for our wounded warriors and help them build lives of hope, promise, and dignity.

Our military families also sacrifice for America. They endure sleepless nights and the daily struggle of providing for children while a loved one is serving far from home. We have a responsibility to provide for them. So I ask you to join me in expanding their access to childcare, creating new hiring preferences for military spouses across the Federal Government, and allowing our troops to transfer their unused education benefits to their spouses or children. Our military families serve our Nation, they inspire our Nation, and tonight our Nation honors them.

The secret of our strength, the miracle of America, is that our greatness lies not in our Government, but in the spirit and determination of our people. When the Federal Convention met in Philadelphia in 1787, our Nation was bound by the Articles of Confederation, which began with the words, ''We the undersigned delegates.'' When Gouverneur Morris was asked to draft the preamble to our new Constitution, he offered an important revision and opened with words that changed the course of our Nation and the history of the world: ''We the people.''

By trusting the people, our Founders wagered that a great and noble Nation could be built on the liberty that resides in the hearts of all men and women. By trusting the people, succeeding generations transformed our fragile young democracy into the most powerful Nation on earth and a beacon of hope for millions. And so long as we continue to trust the people, our Nation will prosper, our liberty will be secure, and the State of our Union will remain strong. So tonight, with confidence in freedom's power, and trust in the people, let us set forth to do their business.

GEORGE W. BUSH.

THE WHITE HOUSE, *January 28, 2008*.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself and Mrs. MURRAY):

S. 2560. A bill to create the income security conditions and family supports needed to ensure permanency for the Nation's unaccompanied youth, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 2561. A bill to require the Secretary of the Interior to conduct a theme study to identify sites and resources to commemorate and interpret the Cold War; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. LUGAR, Mr. MENENDEZ, Mr. CARDIN, and Mr. DURBIN):

S. Res. 432. A resolution urging the international community to provide the United Nations-African Union Mission in Sudan with essential tactical and utility helicopters; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 414

At the request of Ms. MIKULSKI, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 414, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Federal Meat Inspection Act to require that food that contains product from a cloned animal be labeled accordingly, and for other purposes.

S. 661

At the request of Mrs. CLINTON, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 661, a bill to establish kinship navigator programs, to establish guardianship assistance payments for children, and for other purposes.

S. 773

At the request of Mr. WARNER, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1430

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1430, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1780

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1780, a bill to require the FCC, in enforcing its regulations concerning the broadcast of indecent programming, to maintain a policy that a single word or image may be considered indecent.

S. 1794

At the request of Mr. BAYH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1794, a bill to amend the Federal Direct Loan Program to provide that interest shall not accrue on Federal Direct Loans for active duty service members and their spouses.

S. 1800

At the request of Mrs. CLINTON, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1800, a bill to amend title 10, United States Code, to require emergency contraception to be available at all military health care treatment facilities.

S. 1848

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1848, a bill to amend the Trade Act of 1974 to address the impact of globalization, to reauthorize trade adjustment assistance, to extend trade adjustment assistance to service workers, communities, firms, and farmers, and for other purposes.

S. 1906

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1906, a bill to understand and comprehensively address the oral health problems associated with methamphetamine use.

S. 1907

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1907, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to understand and comprehensively address the inmate oral health problems associated with methamphetamine use, and for other purposes.

S. 1948

At the request of Mr. VOINOVICH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1948, a bill to award grants to establish Advanced Multidisciplinary Computing Software Centers, which shall conduct outreach, technology transfer, development, and utilization programs in specific industries and geographic regions for the benefit of small- and medium-size manufacturers and businesses.

S. 2004

At the request of Mrs. MURRAY, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2004, a bill to amend title 38, United States Code, to establish epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes.

S. 2063

At the request of Mr. CONRAD, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2063, a bill to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the economic security of the United States, and to expand future prosperity and growth for all Americans.

S. 2119

At the request of Mr. JOHNSON, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2119, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 2400

At the request of Mrs. CLINTON, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2400, a bill to amend title 37, United States Code, to require the Secretary of Defense to continue to pay to a member of the Armed Forces who is retired or separated from the Armed Forces due to a combat-related injury certain bonuses that the member was entitled to before the retirement or separation and would continue to be entitled to if the member was not retired or separated, and for other purposes.

S. 2426

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2426, a bill to provide for congressional oversight of United States agreements with the Government of Iraq.

S. 2449

At the request of Mr. KOHL, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2449, a bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes.

S. 2452

At the request of Mr. DODD, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from New York (Mrs. CLINTON) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 2452, a bill to amend the Truth in Lending Act to provide protection to consumers with respect to certain high-cost loans, and for other purposes.

S. 2500

At the request of Mr. LEAHY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2500, a bill to provide fair compensation to artists for use of their sound recordings.

S. 2544

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2544, a bill to provide for a program of temporary extended unemployment compensation.

S. 2552

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2552, a bill to amend the Internal Revenue Code of 1986 to provide a stimulus to small business by increasing expensing for small businesses in 2008, extending the length of the

carryback period for net operating losses during 2007 and 2008, and extending the research and development credit.

S. 2553

At the request of Mr. KERRY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2553, a bill to modify certain fees applicable under the Small Business Act for 2008, to make an emergency appropriation for certain small business programs, and to amend the Internal Revenue Code of 1986 to provide increased expensing for 2008, to provide a 5-year carryback for certain net operating losses, and for other purposes.

S. 2555

At the request of Mrs. BOXER, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 2555, a bill to permit California and other States to effectively control greenhouse gas emissions from motor vehicles, and for other purposes.

S.J. RES. 27

At the request of Mrs. DOLE, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S.J. Res. 27, a joint resolution proposing an amendment to the Constitution of the United States relative to the line item veto.

S. RES. 429

At the request of Mr. STEVENS, his name was added as a cosponsor of S. Res. 429, a resolution honoring the brave men and women of the United States Coast Guard whose tireless work, dedication, and commitment to protecting the United States have led to the confiscation of over 350,000 pounds of cocaine at sea during 2007.

S. RES. 431

At the request of Mr. FEINGOLD, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 431, a resolution calling for a peaceful resolution to the current electoral crisis in Kenya.

AMENDMENT NO. 3893

At the request of Mr. BROWNBACK, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 3893 proposed to S. 1200, a bill to amend the Indian Health Care Improvement Act to revise and extend the Act.

AMENDMENT NO. 3909

At the request of Mr. FEINGOLD, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 3909 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3913

At the request of Mr. FEINGOLD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 3913 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3914

At the request of Mr. FEINGOLD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 3914 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2561. A bill to require the Secretary of the Interior to conduct a theme study to identify sites and resources to commemorate and interpret the Cold War; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, 75 years ago yesterday, the U.S. conducted the first nuclear test on American soil—the detonation of a one-kiloton nuclear device in an area known as Frenchman Flat at the Nevada Test Site.

Conducted in extraordinary secrecy, this first nuclear testing program, known as Project Nutmeg, was representative of the efforts of countless Americans in the 50 year struggle we know as the Cold War.

Lasting half a century, the Cold War was the longest sustained conflict in U.S. history. The nuclear capabilities of our enemy posed literally an existential threat to our Nation. The threat of mass destruction left a permanent mark on American life.

The U.S. prevailed over this grave threat, through the technological achievement, patriotism, and sacrifice of the people of the great State of Nevada, and of others throughout the Nation.

It has been 18 years since the Malta Conference that marked the end of the Cold War, yet the contributions and sacrifices of generations of Americans have largely gone unrecognized.

The time has come to recognize and honor those Americans who toiled in relative obscurity to bring us victory during this most dangerous conflict in our Nation's history.

Today I introduce a bill that requires the Department of the Interior to conduct a study to identify sites and resources to commemorate heroes of the Cold War, and to interpret the Cold War for future generations.

My legislation directs the Secretary of the Interior to establish a ''Cold War Advisory Committee'' to oversee the inventory of Cold War sites and resources; for potential inclusion in the National Park System; as national historic landmarks; or other appropriate designations.

The Advisory Committee will work closely with State and local governments and local historical organizations. The Committee's starting point will be a Cold War study completed by the Secretary of Defense under the 1991 Defense Appropriations Act. Obvious Cold War sites of significance include: intercontinental ballistic missile launch sites; flight training centers; communications and command centers, such as Cheyenne Mountain, Colorado; nuclear weapons test sites, such as the Nevada Test Site; and sites of other strategic and tactical significance.

Perhaps no state in the union played a more sigificant role than Nevada in winning the Cold War.

The Nevada Test Site is a high-technology engineering marvel where the U.S. developed, tested, and perfected a nuclear deterrent that formed the cornerstone of America's security and leadership among nations. Of the 1,149 nuclear detonations conducted by U.S. as part of its nuclear testing program, 1,021 were performed at the Nevada Test Site.

The Naval Air Station at Fallon, NV, home of the Navy's preeminent tactical air warfare training center, was also the site of Cold War-era nuclear testing.

Hawthorne Army Depot, formerly known as the Hawthorne Army Ammunition Plant, likewise played an important role throughout the Cold War, serving as a staging area for conventional bombs, rockets, and ammunition as it had done since World War II.

Nellis Air Force Base outside Las Vegas, home of the first dedicated air warfare and later air/ground training facility, provided to Cold War aviators and continues to provide advanced air combat training for U.S. and Allied forces.

Generations of Nevadans bore and continue to bear extraordinary costs as a result of these critical contributions to the Cold War effort.

The Advisory Committee established under this legislation will develop an interpretive handbook telling the story of the Cold War and its heroes.

I'd like to take a moment to relate a story of one group of Cold War heroes.

On a snowy evening, November 17, 1955, a U.S. Air Force C–54 cargo plane crashed near the summit of Mount Charleston in rural Nevada.

Kept secret for years, we now know that the four aircrew and ten scientists aboard the doomed aircraft were bound for the secret Air Force Flight Test Center, where they were developing a top-secret spy plane that would become known as the U–2.

These men who gave their lives that day helped build the plane that many critics said could never be built. Owing to the efforts of men like these, the critics were proved wrong: the U–2 remains a vital component of our reconnaissance forces to this day.

As a result of the absolute secrecy surrounding their work, the families of the men who perished on Mount Charleston only recently learned the true circumstances of the crash that

took the lives of their loved ones and the nature of their vital work.

This legislation will provide $500,000 to identify historic landmarks, like the Mount Charleston crash site, to recognize and pay tribute to the sacrifices of these men and others.

I would like to reiterate my thanks for Mr. Steve Ririe of Las Vegas, whose tireless efforts brought to light the events surrounding the death of these fourteen men on Mount Charleston over fifty years ago, and for the efforts of State Senator Raymond Rawson, who shepherded through the Nevada legislature a resolution honoring these heroes.

A grateful Nation owes a debt of supreme gratitude to the silent heroes of the Cold War. I urge my colleagues to support this long-overdue tribute to the contribution and sacrifice of these Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD as follows:

S. 2561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Cold War Advisory Committee established under section 3.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) THEME STUDY.—The term ''theme study'' means the national historic landmark theme study conducted under section 2(a).

SEC. 2. COLD WAR THEME STUDY.

(a) IN GENERAL.—The Secretary shall conduct a national historic landmark theme study to identify sites and resources in the United States that are significant to the Cold War.

(b) RESOURCES.—In conducting the theme study, the Secretary shall consider—

(1) the inventory of sites and resources associated with the Cold War completed by the Secretary of Defense under section 8120(b)(9) of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1906); and

(2) historical studies and research of Cold War sites and resources, including—

(A) intercontinental ballistic missiles;

(B) flight training centers;

(C) manufacturing facilities;

(D) communications and command centers (such as Cheyenne Mountain, Colorado);

(E) defensive radar networks (such as the Distant Early Warning Line);

(F) nuclear weapons test sites (such as the Nevada test site); and

(G) strategic and tactical aircraft.

(c) CONTENTS.—The theme study shall include—

(1) recommendations for commemorating and interpreting sites and resources identified by the theme study, including—

(A) sites for which studies for potential inclusion in the National Park System should be authorized;

(B) sites for which new national historic landmarks should be nominated; and

(C) other appropriate designations;

(2) recommendations for cooperative agreements with—

(A) State and local governments;

(B) local historical organizations; and

(C) other appropriate entities; and

(3) an estimate of the amount required to carry out the recommendations under paragraphs (1) and (2).

(d) CONSULTATION.—In conducting the theme study, the Secretary shall consult with—

(1) the Secretary of the Air Force;

(2) State and local officials;

(3) State historic preservation offices; and

(4) other interested organizations and individuals.

(e) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the findings, conclusions, and recommendations of the theme study.

SEC. 3. COLD WAR ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—As soon as practicable after funds are made available to carry out this Act, the Secretary shall establish an advisory committee, to be known as the ''Cold War Advisory Committee'', to assist the Secretary in carrying out this Act.

(b) COMPOSITION.—The Advisory Committee shall be composed of 9 members, to be appointed by the Secretary, of whom—

(1) 3 shall have expertise in Cold War history;

(2) 2 shall have expertise in historic preservation;

(3) 1 shall have expertise in the history of the United States; and

(4) 3 shall represent the general public.

(c) CHAIRPERSON.—The Advisory Committee shall select a chairperson from among the members of the Advisory Committee.

(d) COMPENSATION.—A member of the Advisory Committee shall serve without compensation but may be reimbursed by the Secretary for expenses reasonably incurred in the performance of the duties of the Advisory Committee.

(e) MEETINGS.—On at least 3 occasions, the Secretary (or a designee) shall meet and consult with the Advisory Committee on matters relating to the theme study.

SEC. 4. INTERPRETIVE HANDBOOK ON THE COLD WAR.

Not later than 4 years after the date on which funds are made available to carry out this Act, the Secretary shall—

(1) prepare and publish an interpretive handbook on the Cold War; and

(2) disseminate information in the theme study by other appropriate means.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $500,000.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 432—URGING THE INTERNATIONAL COMMUNITY TO PROVIDE THE UNITED NATIONS-AFRICAN UNION MISSION IN SUDAN WITH ESSENTIAL TACTICAL AND UTILITY HELICOPTERS

Mr. BIDEN (for himself, Mr. LUGAR, Mr. MENENDEZ, Mr. CARDIN, and Mr. DURBIN) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 432

Whereas, on August 30, 2006, the United Nations Security Council approved United Nations Security Council Resolution 1706, providing that the existing United Nations Mission in Sudan (UNMIS) ''shall take over from [the African Mission in Sudan (AMIS)] responsibility for supporting the implementation of the Darfur Peace Agreement upon the expiration of AMIS' mandate but in any event no later than 31 December 2006'';

Whereas, on July 31, 2007, the United Nations Security Council approved United Nations Security Council Resolution 1769 reaffirming Resolution 1706 and stating that the Security Council ''[d]ecides . . . to authorise and mandate the establishment . . . of an AU/UN Hybrid operation in Darfur (UNAMID) . . . [and] [d]ecides that UNAMID, which shall incorporate AMIS personnel and the UN Heavy and Light Support Packages to AMIS, shall consist of up to 19,555 military personnel, including 360 military observers and liaison officers, and an appropriate civilian component including up to 3,772 police personnel and 19 formed police units comprising up to 140 personnel each'';

Whereas, on December 31, 2007, the United Nations-African Union hybrid mission formally assumed control of peacekeeping operations in Darfur, but did so with only approximately 9,000 troops and police on the ground, far short of both the authorized and necessary levels;

Whereas the Government of Sudan continues to obstruct implementation of Security Council Resolutions 1706 and 1769 in several respects, including by refusing to conclude a Status of Forces Agreement or to cooperate on issues such as the force composition, the authorization of night flights, customs clearance, land access, and visas for staff;

Whereas, on January 7, 2008, uniformed elements of the army of Sudan attacked a clearly marked UNAMID supply convoy, severely wounding a Sudanese civilian driver;

Whereas rebels, militias, government forces, bandits, and others continue to prey upon the people of Darfur and upon humanitarian workers, increasing the urgency of both deploying the full complement of peacekeepers and police and of reaching a lasting political settlement;

Whereas the preliminary results of a United Nations assessment entitled the ''Food Security and Nutrition Assessment of the Conflict-Affected Population of Darfur (August/September 2007)'' reveal that global acute malnutrition in Darfur increased in 2007, exceeding emergency levels in some regions;

Whereas the United Nations-African Union Mission in Sudan has been hampered not only by obstruction by the Government of Sudan and other obstacles to peace in the region, but by the failure of the international community to commit the resources, equipment, and personnel needed to carry out the peacekeeping mission, most notably the failure to provide critically needed aviation and transportation assets;

Whereas the United Nations-African Union Mission in Sudan needs, among other critical mobility capabilities that have not been met, 18 utility helicopters and 6 tactical helicopters and crews;

Whereas, in a report to the Security Council dated December 24, 2007, the Secretary-General termed these helicopters indispensable and stated that ''UNAMID must be capable of rapid mobility over large distances, especially over terrain where roads are the exception. Without the missing helicopters, this mobility—a fundamental requirement for the implementation of the UNAMID mandate—will not be possible.'';

Whereas a large number of countries possess the military assets that could help to fulfill this requirement;

Whereas the United States continues to lead the world in its contributions to efforts to end the genocide in Darfur, including by providing more than $4,500,000,000 since 2004 in response to the Darfur crisis;

Whereas continued failure on the part of the international community to take all steps necessary to generate, deploy, and maintain an effective United Nations-African Union hybrid peacekeeping force will result in the continued loss of life and further degradation of humanitarian infrastructure in Darfur; and

Whereas it would be inexcusable for the international community to allow an authorized peacekeeping mission intended to help bring an end to genocide and its effects to founder or be compromised because of a failure to commit critical elements, such as the 24 helicopters needed to meet the critical mobility capabilities of the United Nations-African Union Mission in Sudan: Now, therefore, be it

Resolved, That the Senate—

(1) urges the members of the international community, including the United States, that possess the capability to provide the tactical and utility helicopters needed for the United Nations-African Union peacekeeping mission in Darfur to do so as soon as possible; and

(2) urges the President to intervene personally by contacting other heads of state and asking them to contribute the aircraft and crews for the Darfur mission.

Mr. BIDEN. Mr. President, on December 31, the United Nations and the African Union jointly assumed control of the peacekeeping mission in Darfur. But, sadly, little has changed for the people of Darfur.

The United Nations Security Council has authorized over 26,000 peacekeepers, but just over 9,000 are on the ground in Darfur.

The government of Sudan had promised to abide by the United Nations resolution, but it continues to obstruct it at almost every turn.

Some of the rebel leaders have begun to join in coalitions with one another, an important step for the peace process, but others continue to prey on civilians and humanitarian aid workers and to threaten peacekeepers.

And the nations of the world had pledged to help end the genocide, but they are falling short where it counts.

U.N. Secretary General Ban Ki-moon reports that no one has stepped up to provide the 24 helicopters that are needed to transport and protect the peacekeepers and to give them the mobility that they need to do their jobs.

That is inexcusable. We cannot allow genocide and suffering to continue because the combined nations of the world cannot find 24 helicopters to help stop it.

That is why today, joined by Senator LUGAR and a number of other colleagues, I have introduced a resolution expressing the Sense of the Senate that the world must not allow this peacekeeping mission to founder because we cannot find 24 suitable aircraft within our vast arsenals.

I recognize that helicopters are expensive vehicles that are in short supply, with wars raging in Afghanistan and Iraq and with peacekeeping missions in the Congo and now being deployed to Chad as well.

But a considerable number of nations possess aerial vehicles with the capabilities that are needed for this mission. Together, we could fill this gap.

The United Nations is seeking 18 utility and 6 tactical helicopters. According to a piece in the Washington Post, the member nations of NATO alone possess over 18,000 helicopters.

Not all of these 18,000 aircraft would be suitable for this mission. NATO reserves are taxed in Afghanistan and elsewhere, but the potential vehicles certainly exist. NATO is not alone in this capability. Other countries could also step up to fill this need.

Secretary General Ban has stated that these vehicles are indispensable. He reports that the United Nations-African Union mission must ''be capable of rapid mobility over large distances, especially over terrain where roads are the exception.'' Ban also said that ''Without the missing helicopters, this mobility—a fundamental requirement for the implementation of the [Security Council's] mandate—will not be possible.''

Helicopters alone will not save Darfur. The needs there are immense and growing. The United Nations revealed last month that acute malnutrition in the region is rising and surpassing emergency levels in some areas. To make matters worse, the Government of Khartoum is continuing to obstruct deployment of U.N. peacekeepers. They have objected to non-African peacekeepers, such as a team of Norwegian engineers, and they are slowing deployment by denying visas and land permits and denying night flights. Most seriously of all, earlier this month, Sudanese troops opened fire on a clearly marked U.N. convoy, badly injuring a driver.

The world must not allow the Khartoum government to dictate terms to the UN mission. The European Union and United Nations Security Council should, I believe, join the United States in imposing strong economic sanctions on the Sudanese government.

We should also continue to pressure the rebel groups to cease all attacks on civilians and humanitarian workers and engage in a peace process to bring a real solution for the people of Darfur.

We should do all these things and more, but, first and foremost, we should ensure that the United Nations and African Union have the tools that they need to carry out their mission.

The United States has already provided more than $4.5 billion since 2004 in response to the Darfur crisis. That is an enormous contribution and it should not fall on our shoulders to fill this particular gap in the peacekeeping mission.

That is why I have repeatedly written President Bush asking him to use the powers of persuasion of his office to personally contact other heads of state to ask them to commit the needed vehicles and crews. I have also written the Secretary General of NATO and President Hu of China, asking them to help fill this gap.

Our resolution urges the members of the international community with the necessary assets to contribute the needed vehicles and crews.

Preventing genocide is a global responsibility. Too often the world has failed to keep this commitment, and it has failed Darfur for too long.

We cannot allow the government of Khartoum to block deployment of the 26,000 peacekeepers, but it would perhaps be even more unforgivable if the international community refuses to provide the peacekeepers with the equipment and vehicles that they need. Then we will have done Khartoum's job for them by obstructing ourselves.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3951. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3930 submitted by Mr. CARDIN (for himself and Ms. MIKULSKI) and intended to be proposed to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table.

SA 3952. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3901 submitted by Mr. KENNEDY and intended to be proposed to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3953. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3859 submitted by Mr. CARDIN and intended to be proposed to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3954. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3955. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3915 submitted by Mr. FEINGOLD (for himself and Mr. DODD) and intended to be proposed to the amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3956. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3918 proposed by Mr. REID to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3957. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3932 submitted by Mr. WHITEHOUSE and intended to be proposed to the amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3958. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3929 submitted by Mr. LEAHY (for himself, Mr. KENNEDY, Mr. MENENDEZ, and Ms. MIKULSKI) and intended to be proposed to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3959. Mr. WHITEHOUSE submitted an amendment intended to be proposed to amendment SA 3903 submitted by Mr. KYL and intended to be proposed to the bill S. 2248, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3951. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3930 submitted by Mr. CARDIN (for himself and Ms. MIKULSKI)

and intended to be proposed to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''the transitional procedures'', and all that follows through ''2011.'' on line 8 and insert the following: ''the previous sentence shall have no force or effect.''.

SA 3952. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3901 submitted by Mr. KENNEDY and intended to be proposed to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''the transitional procedures'', and all that follows through ''2010.'' on line 8 and insert the following: ''the previous sentence shall have no force or effect.''.

SA 3953. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3859 submitted by Mr. CARDIN and intended to be proposed to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''the transitional procedures'', and all that follows through ''2011.'' on line 8 and insert the following: ''the previous sentence shall have no force or effect.''.

SA 3954. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, strike line 8 and all that follows through the end of the amendment and insert the following:

(c) AUTHORIZATION FOLLOWING ATTACK OR DECLARATION OF WAR.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by—

(1) striking section 111 and inserting the following:

''AUTHORIZATION FOLLOWING ATTACK OR DECLARATION OF WAR

''SEC. 111. Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order to acquire foreign intelligence information for a period of not longer than 180 days after the date of—

''(1) submission of a certification by the Attorney General to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that there is a grave threat of an imminent attack on the United States;

''(2) an attack on the United States; or

''(3) a declaration of war by the Congress.'';

(2) striking section 309 and inserting the following:

''AUTHORIZATION FOLLOWING ATTACK OR DECLARATION OF WAR

''SEC. 309. Notwithstanding any other law, the President, through the Attorney General, may authorize a physical search without a court order to acquire foreign intelligence information for a period of not longer than 180 days after the date of—

''(1) submission of a certification by the Attorney General to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that there is a grave threat of an imminent attack on the United States;

''(2) an attack on the United States; or

''(3) a declaration of war by the Congress.''; and

(3) striking section 404 and inserting the following:

''AUTHORIZATION FOLLOWING ATTACK OR DECLARATION OF WAR

''SEC. 404. Notwithstanding any other law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order to acquire foreign intelligence information for a period of not longer than 180 days after the date of—

''(1) submission of a certification by the Attorney General to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that there is a grave threat of an imminent attack on the United States;

''(2) an attack on the United States; or

''(3) a declaration of war by the Congress.''.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 2511(2) of title 18, United States Code, is amended—

(A) in paragraph (a), by adding at the end the following:

''(iii) If a certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information is based on statutory authority, the certification shall identify the specific statutory provision, and shall certify that the requirements have been met.''; and

(B) in paragraph (f), by striking '', as defined in section 101 of such Act,'' and inserting ''(as defined in section 101(f) of such Act regardless of the limitation of section 701 of such Act)''.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by—

(A) striking the item relating to section 111 and inserting the following:

''Sec. 111. Authorization following attack or declaration of war.

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.'';

(B) striking the item relating to section 309 and inserting the following:

''Sec. 309. Authorization following attack or declaration of war.''; and

(C) striking the item relating to section 404 and inserting the following:

''Sec. 404. Authorization following attack or declaration of war.''.

SA 3955. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3951 submitted by Mr. FEINGOLD (for himself and Mr. DODD) and intended to be proposed to the amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 12 and all that follows through the end of the amendment and insert the following:

''(ii) LIMITATION ON USE OF INFORMATION.—If part or all of an acquisition authorized under subsection (a) is terminated under clause (i)(II), no information obtained or evidence derived from such terminated acquisition concerning any United States person shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such terminated acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General, if the information indicates a threat of death or serious bodily harm to any person.''

SA 3956. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3918 proposed by Mr. REID to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after ''**1.**'' and insert the following:

SHORT TITLE.

This Act may be cited as the ''Permanent Protect America Act of 2008''.

TITLE I—REPEAL OF SUNSET OF THE PROTECT AMERICA ACT OF 2007

SEC. 101. REPEAL OF SUNSET OF THE PROTECT AMERICA ACT OF 2007.

Section 6 of the Protect America Act of 2007 (Public Law 110–55; 121 Stat. 557; 50 U.S.C. 1803 note) is amended by striking subsection (c).

TITLE II—PROTECTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS

SEC. 201. DEFINITIONS.

In this title:

(1) ASSISTANCE.—The term ''assistance'' means the provision of, or the provision of access to, information (including communication contents, communications records, or other information relating to a customer or communication), facilities, or another form of assistance.

(2) CONTENTS.—The term ''contents'' has the meaning given that term in section 101(n) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(n)).

(3) COVERED CIVIL ACTION.—The term ''covered civil action'' means a civil action filed in a Federal or State court that—

(A) alleges that an electronic communication service provider furnished assistance to an element of the intelligence community; and

(B) seeks monetary or other relief from the electronic communication service provider related to the provision of such assistance.

(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term ''electronic communication service provider'' means—

(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

(B) a provider of an electronic communication service, as that term is defined in section 2510 of title 18, United States Code;

(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored;

(E) a parent, subsidiary, affiliate, successor, or assignee of an entity described in subparagraph (A), (B), (C), or (D); or

(F) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), (D), or (E).

(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ''element of the intelligence community'' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 202. LIMITATIONS ON CIVIL ACTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

(a) LIMITATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a covered civil action shall not lie or be maintained in a Federal or State court, and shall be promptly dismissed, if the Attorney General certifies to the court that—

(A) the assistance alleged to have been provided by the electronic communication service provider was—

(i) in connection with an intelligence activity involving communications that was—

(I) authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007; and

(II) designed to detect or prevent a terrorist attack, or activities in preparation for a terrorist attack, against the United States; and

(ii) described in a written request or directive from the Attorney General or the head of an element of the intelligence community (or the deputy of such person) to the electronic communication service provider indicating that the activity was—

(I) authorized by the President; and

(II) determined to be lawful; or

(B) the electronic communication service provider did not provide the alleged assistance.

(2) REVIEW.—A certification made pursuant to paragraph (1) shall be subject to review by a court for abuse of discretion.

(b) REVIEW OF CERTIFICATIONS.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a certification made pursuant to subsection (a) would harm the national security of the United States, the court shall—

(1) review such certification in camera and ex parte; and

(2) limit any public disclosure concerning such certification, including any public order following such an ex parte review, to a statement that the conditions of subsection (a) have been met, without disclosing the subparagraph of subsection (a)(1) that is the basis for the certification.

(c) NONDELEGATION.—The authority and duties of the Attorney General under this section shall be performed by the Attorney General (or Acting Attorney General) or a designee in a position not lower than the Deputy Attorney General.

(d) CIVIL ACTIONS IN STATE COURT.—A covered civil action that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable under section 1441 of title 28, United States Code.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit any otherwise available immunity, privilege, or defense under any other provision of law.

(f) EFFECTIVE DATE AND APPLICATION.—This section shall apply to any covered civil action that is pending on or filed after the date of enactment of this Act.

SEC. 203. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after title VII the following new title:

''TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

''SEC. 801. DEFINITIONS.

''In this title:

''(1) ASSISTANCE.—The term 'assistance' means the provision of, or the provision of access to, information (including communication contents, communications records, or other information relating to a customer or communication), facilities, or another form of assistance.

''(2) ATTORNEY GENERAL.—The term 'Attorney General' has the meaning give that term in section 101(g).

''(3) CONTENTS.—The term 'contents' has the meaning given that term in section 101(n).

''(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term 'electronic communication service provider' means—

''(A) a telecommunications carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153);

''(B) a provider of electronic communication service, as that term is defined in section 2510 of title 18, United States Code;

''(C) a provider of a remote computing service, as that term is defined in section 2711 of title 18, United States Code;

''(D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored;

''(E) a parent, subsidiary, affiliate, successor, or assignee of an entity described in subparagraph (A), (B), (C), or (D); or

''(F) an officer, employee, or agent of an entity described in subparagraph (A), (B), (C), (D), or (E).

''(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'element of the intelligence community' means an element of the intelligence community as specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(6) PERSON.—The term 'person' means—

''(A) an electronic communication service provider; or

''(B) a landlord, custodian, or other person who may be authorized or required to furnish assistance pursuant to—

''(i) an order of the court established under section 103(a) directing such assistance;

''(ii) a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code; or

''(iii) a directive under section 102(a)(4), 105B(e), as in effect on the day before the date of the enactment of the FISA Amendments Act of 2008 or 703(h).

''(7) STATE.—The term 'State' means any State, political subdivision of a State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States, and includes any officer, public utility commission, or other body authorized to regulate an electronic communication service provider.

''SEC. 802. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES.

''(a) REQUIREMENT FOR CERTIFICATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, no civil action may lie or be maintained in a Federal or State court against any person for providing assistance to an element of the intelligence community, and shall be promptly dismissed, if the Attorney General certifies to the court that—

''(A) any assistance by that person was provided pursuant to an order of the court established under section 103(a) directing such assistance;

''(B) any assistance by that person was provided pursuant to a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code;

''(C) any assistance by that person was provided pursuant to a directive under sections 102(a)(4), 105B(e), as in effect on the day before the date of the enactment of the FISA Amendments Act of 2008, or 703(h) directing such assistance; or

''(D) the person did not provide the alleged assistance.

''(2) REVIEW.—A certification made pursuant to paragraph (1) shall be subject to review by a court for abuse of discretion.

''(b) LIMITATIONS ON DISCLOSURE.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a certification made pursuant to subsection (a) would harm the national security of the United States, the court shall—

''(1) review such certification in camera and ex parte; and

''(2) limit any public disclosure concerning such certification, including any public order following such an ex parte review, to a statement that the conditions of subsection (a) have been met, without disclosing the subparagraph of subsection (a)(1) that is the basis for the certification.

''(c) REMOVAL.—A civil action against a person for providing assistance to an element of the intelligence community that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable under section 1441 of title 28, United States Code.

''(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section may be construed to limit any otherwise available immunity, privilege, or defense under any other provision of law.

''(e) APPLICABILITY.—This section shall apply to a civil action pending on or filed after the date of enactment of the FISA Amendments Act of 2008.''.

SEC. 204. PREEMPTION OF STATE INVESTIGATIONS.

Title VIII of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.), as added by section 203 of this Act, is amended by adding at the end the following new section:

''SEC. 803. PREEMPTION.

''(a) IN GENERAL.—No State shall have authority to—

''(1) conduct an investigation into an electronic communication service provider's alleged assistance to an element of the intelligence community;

''(2) require through regulation or any other means the disclosure of information about an electronic communication service provider's alleged assistance to an element of the intelligence community;

''(3) impose any administrative sanction on an electronic communication service provider for assistance to an element of the intelligence community; or

''(4) commence or maintain a civil action or other proceeding to enforce a requirement that an electronic communication service provider disclose information concerning alleged assistance to an element of the intelligence community.

''(b) SUITS BY THE UNITED STATES.—The United States may bring suit to enforce the provisions of this section.

''(c) JURISDICTION.—The district courts of the United States shall have jurisdiction over any civil action brought by the United States to enforce the provisions of this section.

''(d) APPLICATION.—This section shall apply to any investigation, action, or proceeding that is pending on or filed after the date of enactment of the FISA Amendments Act of 2008.''.

SEC. 205. TECHNICAL AMENDMENTS.

The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following:

''TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

''Sec. 801. Definitions.
''Sec. 802. Procedures for implementing statutory defenses.
''Sec. 803. Preemption.''.

SA 3957. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3932 submitted by Mr. WHITEHOUSE and intended to be proposed to the amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 8, of the amendment, strike ''30'' and insert ''90''.

SA 3958. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3929 submitted by Mr. LEAHY (for himself, Mr. KENNEDY, Mr. MENENDEZ, and Ms. MIKULSKI) and intended to be proposed to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike line 4 of page 1 of the amendment and all that follows and insert the following:

(a) TERRORIST SURVEILLANCE PROGRAM AND PROGRAM DEFINED.—In this section, the terms ''Terrorist Surveillance Program'' and ''Program'' mean the intelligence activity involving communications that was authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007.

(b) REVIEWS.—

(1) REQUIREMENT TO CONDUCT.—The Inspectors General of the Office of the Director of National Intelligence, the Department of Justice, and the National Security Agency, with respect to the oversight authority and responsibility of each such Inspector General and only with respect to the participation of their respective agencies or departments in the Terrorist Surveillance Program, shall complete, to the extent applicable, a comprehensive review of—

(A) the facts necessary to describe the establishment, implementation, product, and use of the product of the Program;

(B) the procedures of, and access to, the legal reviews of the Program;

(C) communications with, and participation of, individuals and entities in the private sector related to the Program; and

(D) interaction with the Foreign Intelligence Surveillance Court and transition to court orders related to the Program.

(2) COOPERATION.—Each Inspector General required to conduct a review under paragraph (1) shall utilize, to the extent practicable and with due regard to the protection of the national security of the United States, and not unnecessarily duplicate or delay, such reviews or audits related to the Program that have been completed or are being undertaken by any such Inspector General or by any other office of the Executive Branch.

(c) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Inspectors General required to conduct a review under subsection (b) shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, to the extent practicable and with due regard to the protection of intelligence sources and methods, a comprehensive report of such reviews that includes any recommendations of any such Inspector General within the oversight authority and responsibility of any such Inspector General.

(2) FORM.—The report submitted under paragraph (1) shall be submitted in classified form.

SA 3959. Mr. WHITEHOUSE submitted an amendment intended to be proposed to amendment SA 3903 submitted by Mr. KYL and intended to be proposed to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 2, strike ''EXCEPTION'' and all that follows through line 7 and insert the following: ''APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply to an acquisition by an electronic, mechanical, or other surveillance device outside the United States only if the targeted United States person has a reasonable expectation of privacy and a warrant would be required if the acquisition were conducted inside the United States for law enforcement purposes.''.

NOTICE OF HEARING

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. KERRY. Mr. President, I would like to inform Members that the Committee on Small Business and Entrepreneurship will hold a hearing entitled ''Holding the Small Business Administration Accountable: Women's Contracting and Lender Oversight,'' on Wednesday, January 30, 2008, at 10 a.m., in room 428A of the Russell Senate Office Building.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator INOUYE, I ask unanimous consent that floor privileges be granted for the remainder of the 110th Congress to Robin Squellati, a detailee from the U.S. Air Force Nurse Corps who works with his staff on issues pertaining to a number of different issues over which Senator INOUYE has some responsibility.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Augustine Ripa, a legal intern in my Judiciary Committee office, be granted floor privileges for the remainder of the Senate's consideration of the pending FISA legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS AND ORDERS FOR TUESDAY, JANUARY 29, 2008

Mr. ROCKEFELLER. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate stand in recess until 8:20 p.m., and that at 8:30 p.m., the Senate proceed as a body to the Hall of the House of Representatives to receive the President's State of the Union Address; that upon the dissolution of the joint session, the Senate adjourn until 10 a.m., Tuesday, January 29. I further ask that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved, and that there then be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republican leader controlling the first half and the majority leader controlling the final half; that following morning business, the Senate resume consideration of Calendar No. 512, S. 2248, the FISA legislation, and that the Senate stand in recess from 12:30 until 2:15 to allow for the weekly caucus luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. ROCKEFELLER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 5:33 p.m., recessed until 8:21 p.m. and reassembled when called to order by the Presiding Officer (Ms. KLOBUCHAR).

Mrs. MURRAY. Madam President, I move to reconsider the vote on which cloture was not invoked on the Rockefeller-Bond substitute amendment and move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC NO. 110–82.)

The PRESIDING OFFICER. The Senate will proceed to the Hall of the House of Representatives to hear the address by the President of the United States.

Thereupon, the Senate, preceded by the Deputy Sergeant at Arms, Drew

Willison, the Secretary of the Senate, Nancy Erickson, and the Vice President of the United States, RICHARD B. CHENEY, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, George W. Bush.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT UNTIL 10 A.M. TOMORROW

At the conclusion of the joint session of the two Houses and in accordance with the order previously entered, at 10:11 p.m., the Senate adjourned until Tuesday, January 29, 2008, at 10 a.m.

DISCHARGED NOMINATION

The Senate Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following nomination and the nomination was confirmed:

Ed Schafer, of North Dakota, to be Secretary of Agriculture.

CONFIRMATION

Executive nomination confirmed by the Senate Monday, January 28, 2008:

DEPARTMENT OF AGRICULTURE

Ed Schafer, of North Dakota, to be Secretary of Agriculture.